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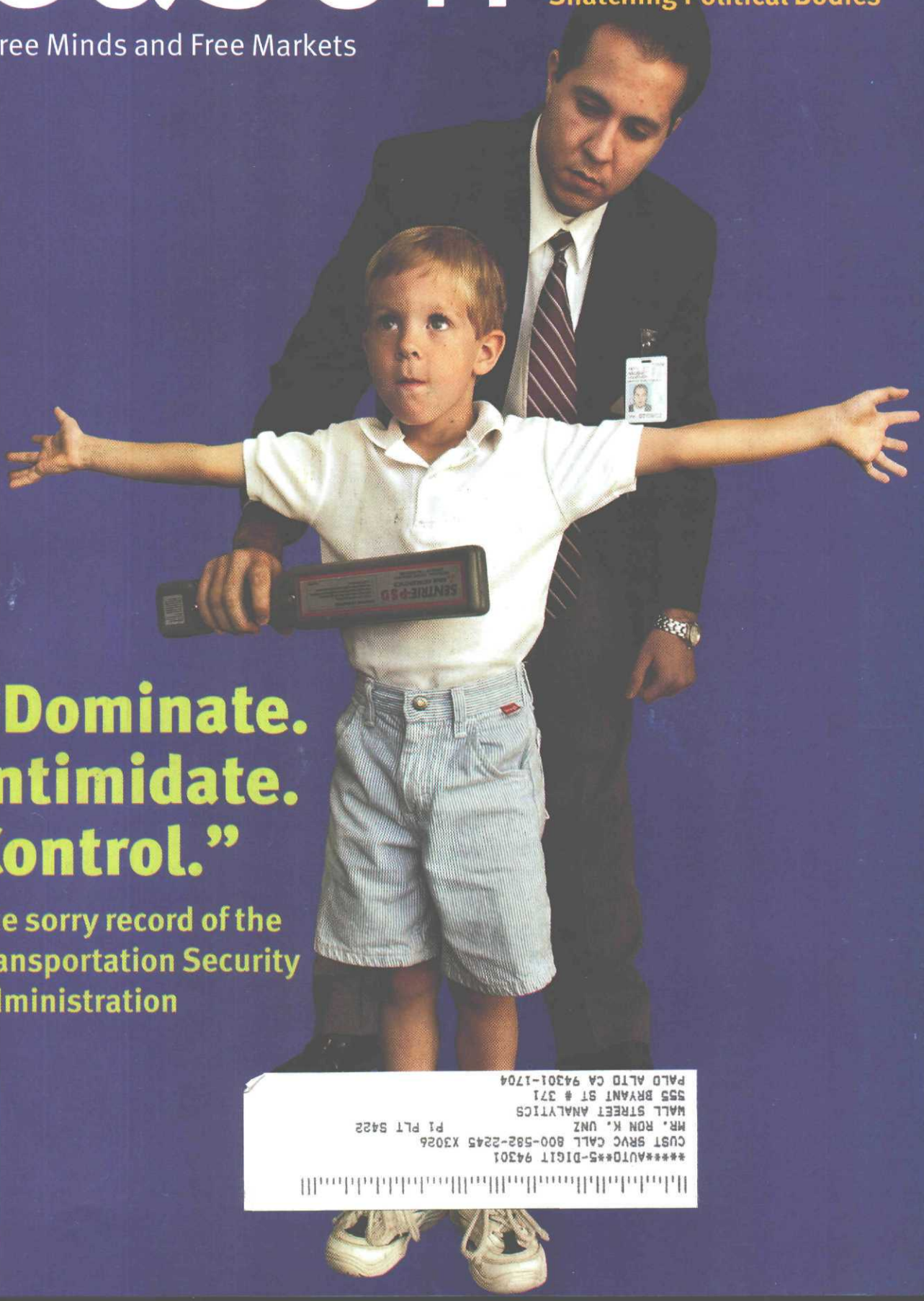

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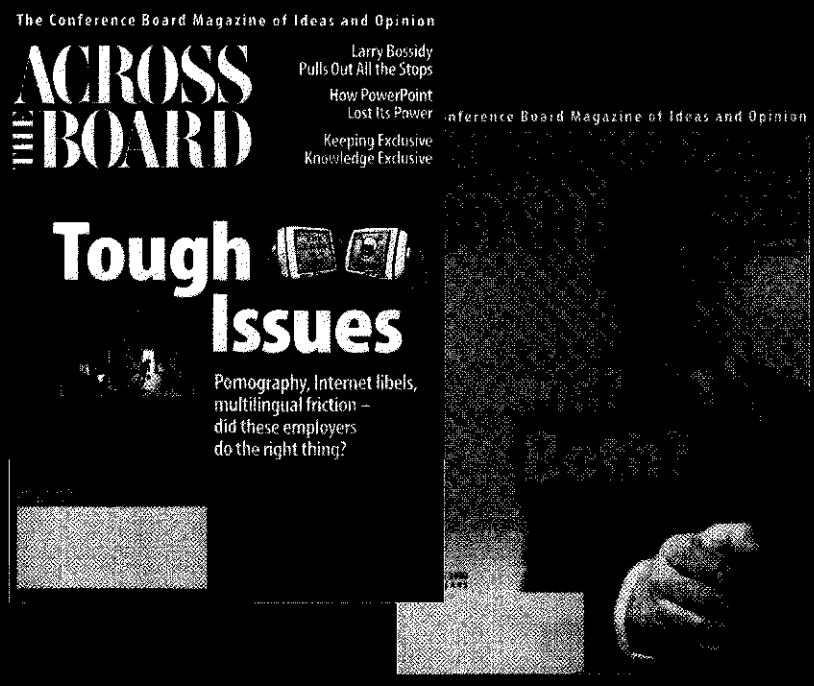
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reason
Free Minds and Free Markets

February 2004
Volume 35, No. 9

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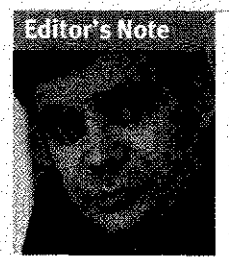
Editor's Note



Control Freaks

THE THEME OF this issue might be dubbed "control freaks." Several of this month's stories unmask ways in which the relatively powerful try to boss around the relatively powerless—typically with impunity and almost always in the name of some vaguely defined greater good.

Consider James Bovard's searing exposé of the "sorry record of the Transportation Security Administration," the newly minted federal agency charged with making U.S. air travel safe from global terrorism (page 24). We titled this story "Dominate. Intimidate. Control." after a motto posted at a TSA training center. As Bovard, whose new book *Terrorism and Tyranny* is a must-read for those interested in civil liberties in the post-9/11 world, writes, that slogan all-too-aptly summarizes the "federal mentality toward air travelers." In rich, infuriating detail, Bovard documents the routine incompetence of the nation's air marshals and baggage checkers, who have been far more successful at hassling airline passengers than they have been at ferreting out real threats to national security. Not for nothing was the TSA called "a monster" by the chairman of the House Aviation Subcommittee, Rep. John Mica (R-Fla.).

Then there's Associate Editor Matt Welch's "Injustice by Default," (page 42) which reports on the unintended consequences of the legitimate, and in most ways successful, effort to get deadbeat dads to support their kids. In California and other states, thousands of men have been wrongly named as fathers and have had their wages garnished, reputations ruined, and lives wrecked. While mistakes are always going to be made, many agencies have proven unwilling or unable to undo the damage they cause when they finger the wrong man. "Once that steamroller of justice starts rolling," writes Welch, "dozens of statutory lubricants help make it extremely difficult, and prohibitively expensive, to stop—even, in most cases, if there's conclusive DNA proof that the man is not the child's father." The result is a double injustice: an innocent man suffers while the real criminal goes free.

In "Teenage Wasteland" (page 50), Carl Horowitz surveys *Kid Stuff*, a recent collection of essays that decries "marketing sex and violence to America's children." Predictably, some of the contributors call for newer, tougher forms of content regulation, including more programming that serves that greatest of all feel-good abstractions, "the public interest." Peter Bagge's comic strip "Principal Stalin" (page 23), which mocks overzealous, repressive school officials, draws its punch lines from the education section of your daily newspaper.

How best to counter the control freaks? The stories in this issue are a starting point. Every time they try to dominate, intimidate, and control, we need to reveal, criticize, and fight back.

Nick Gillespie

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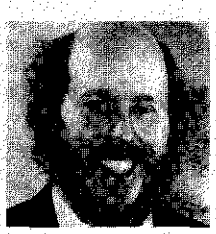

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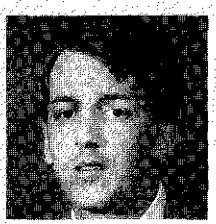

Greg Kaza

Carl F. Horowitz

Few journalists have JAMES BOVARD's gift for making readers' blood boil with righteous fury. But as readers of his books—which include *Lost Rights*, *Freedom in Chains*, *Feeling Your Pain*, and most recently *Terrorism and Tyranny* (Palgrave Macmillan, 2003)—can attest, the government does much of the work for him. In "Dominate. Intimidate. Control." (page 24), he takes on the Transportation Security Administration. The 47-year-old Bovard did a lot of flying for a recent book tour, and he notes that airport security personnel are doing the country *some* good: "They seem to be helping the donut businesses a great deal."

When computer programmer turned writer GENE CALLAHAN began to date his future wife, he was surprised to learn that in her job as a financial analyst, she traded in derivatives. "Is this woman in some sort of scam business?" Callahan wondered—and then read up on derivatives to convince himself she wasn't. Callahan is the author of *Economics for Real People* (Ludwig von Mises Institute, 2002). His coauthor, Arkansas Policy Foundation chief GREG KAZA, served for six years in Michigan's state legislature. When a local municipality lost millions of taxpayer dollars in derivatives, Kaza persuaded fellow legislators that the problem was a lack of transparency, not derivatives as such. The duo's article, "In Defense of Derivatives" (page 32), explains this much-maligned risk-management tool.

CARL F. HOROWITZ doesn't have much patience for "radical culture war types, right or left," or for self-appointed media watchdogs who "think that to depict is to advocate—or to 'glamorize,' as they love to say." That attitude made him an odd fit at the Heritage Foundation, where he was a housing and urban affairs analyst in the early '90s. Horowitz later worked as a correspondent for *Investor's Business Daily* and is now an independent consultant. He takes aim at two hand-wringing "for the children" books on media influence in this issue ("Teenage Wasteland," page 50). Horowitz is an avowed fan of Clint Eastwood and John Woo but, miraculously, has never gone on a shooting spree. Yet.

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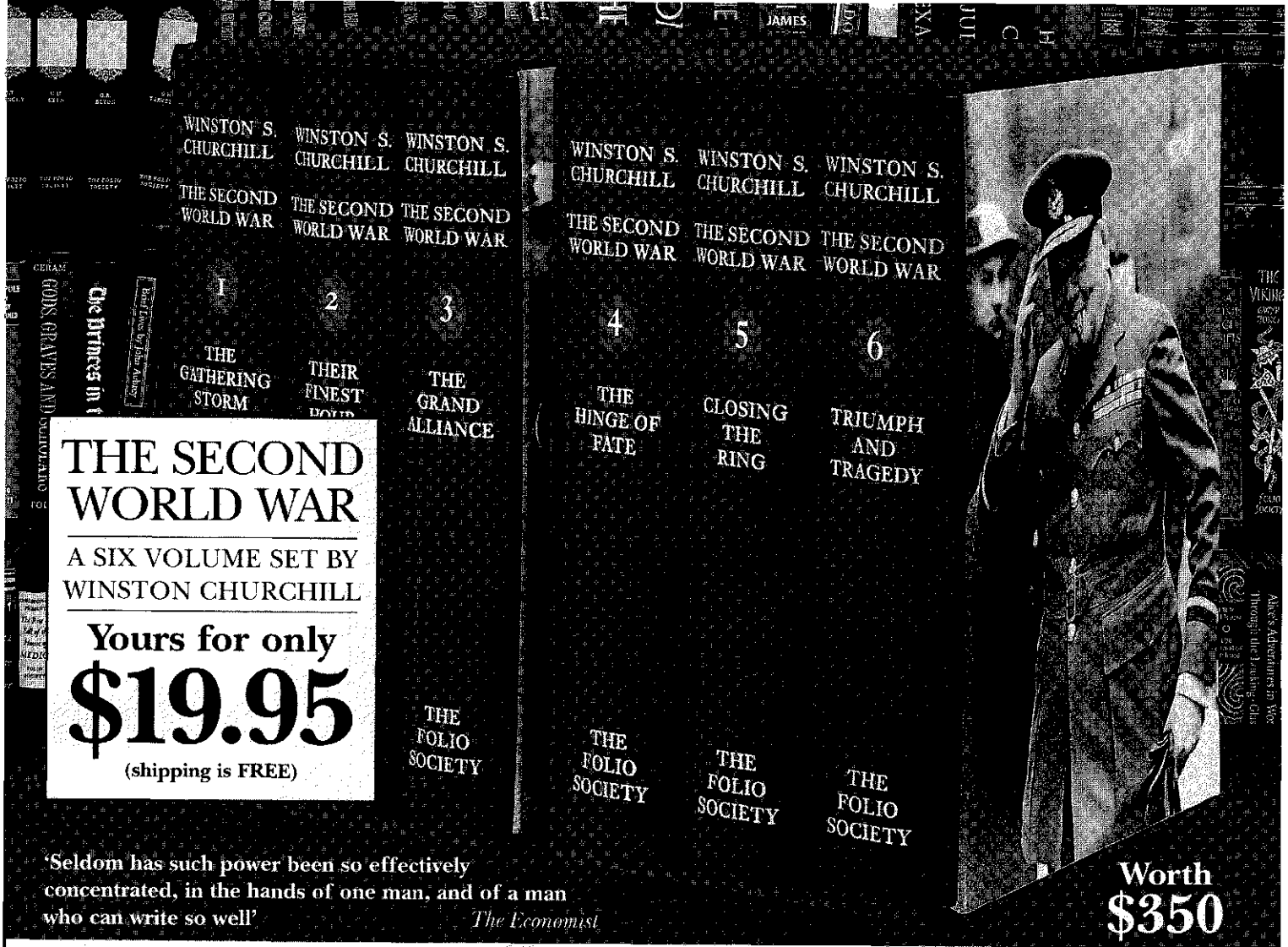

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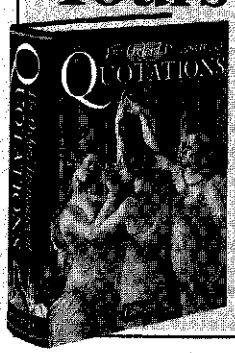

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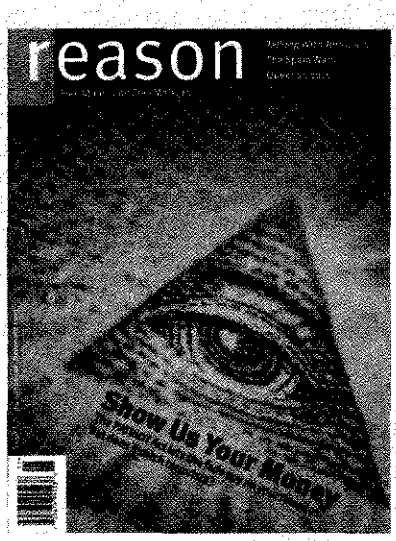

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Beyond Public and Private

As someone who has successfully opposed formation of two local Business Improvement Districts (BIDs) in San Leandro, California, I was disappointed by Jesse Walker's article ("Beyond Public and Private," November), which betrayed a lack of insight into the subject. His characterization of BIDs as somewhat consensual belies the reality, at least in California. Most BIDs in California are created by a small, active group of politically well-connected businesses seeking to impose their vision on the majority of politically less-active businesses. If it were consensual, then the other businesses would voluntarily contribute, rendering a BID unnecessary.

In California, once the municipality has initiated the process, BIDs are theoretically subject to a vote by affected businesses, but the vote is illusory. A successful protest of the BID needs 50 percent of the businesses to affirmatively protest in writing. All businesses that do not properly protest are counted in favor of the BID. This sets up an almost insurmountable barrier: Large percentages of any electorate fail to vote in almost any modern election.

Effective protest is further discouraged through a deliberately consumer-unfriendly process. Notices of the BID are typically sent to businesses in highly technical, arcane language. No form of protest or return envelope is provided. This discourages all but the most literate, knowledgeable, and motivated of businesses from challenging the process. If a business owner speaks a foreign language, tough luck. The business roll often includes businesses no longer operating, but their silence nevertheless counts in favor of the BID.

Once the BID bureaucracy is in place, it does what all bureaucracies do: It focuses on its own self-perpetuation and growth. No matter how inefficiently it delivers services, it will publicly celebrate its putative successes and ignore the tax cost to businesses.

BIDs are essentially perpetual since it is rarely worthwhile for any individual business to expend the energy to oppose bureaucratic entrenchment. As practiced here in California, BIDs are in no sense even quasi-consensual. A few organized businesses seek to compel other businesses to pay so that they might impose their preferences on how capital is deployed. That's called a tax. An associate editor from **reason** should have few kind words for additional taxes, no matter how pretty the surrounding rhetoric.

Michael Jacobowitz
San Leandro, CA

I was interested to find a quote from my organization, the Oregon Downtown Development Association (ODDA), in your latest issue, when neither I nor any of my staff were ever interviewed. The way the quote was written made it sound like ODDA was quoted directly and (one would assume) recently for the article. This is incorrect. I was told the quote came from Richard Briffault's four-year-old law review article on BIDs, where Briffault quoted from a 15-year-old publication that has been revised and updated twice.

In defense of our position and credibility as an organization, I would like your readers to know that we would never say that large, property-owner occupied buildings are "the most dangerous group" standing in the way of implementing a BID. Often, we've found that it is the larger property owners who see the value of, and provide support for, the BID as it is being discussed and implemented. A BID must provide good value and services to the payers or it risks, and rightfully so, being abol-

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ished through an initiative process or by sunsetting.

Walker claims that BIDs are "closer in spirit to a theme park than to a bustling urban plaza." I've discovered that communities of all sizes across the country use BIDs as tools to help revitalize lagging downtown and neighborhood business districts. BIDs are used to help reclaim these commercial centers as the authentic hearts and souls of the communities that they were originally intended to be, where people shop, socialize, gather, and live in real environments, not theme parks.

Vicki D. Dugger
Executive Director, Oregon Downtown Development Association
Salem, OR

Jesse Walker replies: Jacobowitz misunderstands me. I didn't write that business improvement districts are "consensual." I wrote that they're "more consensual than most forms of public administration." The extent to which I think BIDs are a good idea—and anyone who read the piece knows that I didn't exactly embrace them—is the extent to which they represent a devolution of urban power. When the choice is between a business owner's property rights and a BID, I side with the business. When the choice is between having services delivered by a more local, responsive, and self-sustaining unit of government and having them delivered by city hall, BIDs look a bit better.

The quote from ODDA that I used describes a genuine source of conflict, but as Dugger notes, it is also quite old—it dates back to 1988. I apologize if this led anyone to misconstrue the organization's current position.

Roy Moore's Monument

In her article on Judge Roy Moore's attempt to keep a monument to the Ten Commandments in Alabama's state judicial building ("Roy Moore's Monument," November), Cathy Young ignored the 10th Amendment. While some federal-power-grabbing Supreme Court justices may think that the 14th Amendment has overriding authority in this case, I disagree. We are not talking about laws or unfair administration of laws, but about a rock with words carved into it.

Are the words religious in nature, and pretty much Judeo-Christian in origin? So what? They do not have the power of law to affect any decision handed down by the Alabama Supreme Court. Where does it say in our federal Constitution that state courthouse decorations must never offend anyone who happens to read them? Better the Supreme Court should declare the art support programs unconstitutional: They are way more offensive and do abuse my tax dollars.

This rock never asked for anything except tolerance, and the federal judiciary should never have interfered. Roy's rock only affected one courthouse, and the members of the Alabama Supreme Court had all the authority they needed to override Justice Moore's decorating plans for their state-funded floor space.

Margaret R. Wiggins
Bothell, WA

The Spam Wars

Wendy Grossman's "The Spam Wars" (November) was interesting and informative. However, I believe that the economic methods for fighting spam were given short shrift. One of the reasons the "penny per e-mail" method is too often dismissed is that there's not much discussion of exactly where that penny goes. The sender pays a penny, but who gets it? The right answer to that question can mitigate some of the problems Grossman mentions: The penny should go to the owner of the ISP that delivers the e-mail to the final recipient, so that, in effect, an ISP charges others to deliver e-mail to its customers.

Grossman objects that no ISP is set up to charge this way. But 10 years ago, no ISP in the world was set up to validate relayed e-mail or to filter spam. Now both practices are common. This required changes to mail-server software, and adding a "sender pays" system would not be much different.

She argues that it would require an entirely new infrastructure for the industry. But we already have most of the pieces of such an infrastructure, including Internet credit card payments, Internet bill payments, PayPal, and similar services. I've just noticed that even Yahoo! will let me attach money to this e-mail via their "Yahoo! PayDirect from HSBC."

Grossman also worries that "sender pays" would kill free services such as Yahoo! and Hotmail. This is simply one additional cost added to their existing costs. Yahoo! and Hotmail already have to pay for computers, hard disks, bandwidth, and personnel. It's all funded from their advertising. However, at the same time, it is an additional stream of income. Yahoo! and Hotmail will receive a penny for each e-mail they deliver to their customers. They'd probably throw away all their spam filtering software the day such a system is put into place!

Further, the penny doesn't have to be paid immediately upon receiving e-mail. The larger ISPs could easily set up accounts where payments could be made monthly based on the actual auditable number of e-mails. This easily solves the issues of "fractional penny" payments and addresses concerns about massive additional e-mail traffic for processing payments.

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Would such a system make mailing lists economically unfeasible? Any mailing list can simply require that each recipient send an e-mail back to the main server for each e-mail they receive. The list can send out 10,000 e-mails to 10,000 customers at a cost of $100. Each of 10,000 recipients sends an acknowledgement e-mail back, so that the list then receives 10,000 pennies.

Any recipient who fails to perform this duty, which they'd have to agree to as a condition of joining, is dropped from the list. It wouldn't be long before mail client software would have a "penny payback" system in place, where the user can control exactly which recipient receives acknowledgements automatically.

A final difficulty Grossman raises is that the system would have to be legally mandated, but can't be mandated worldwide. But this does *not* need to be legally mandated, although legislation would certainly speed its acceptance worldwide. The Internet community already has numerous standards bodies that create rules and protocols for all sorts of interactions, such as the correct way for two mail servers to interact in sending each other e-mail. The millions of mail servers out there are perfectly free to follow those rules or not.

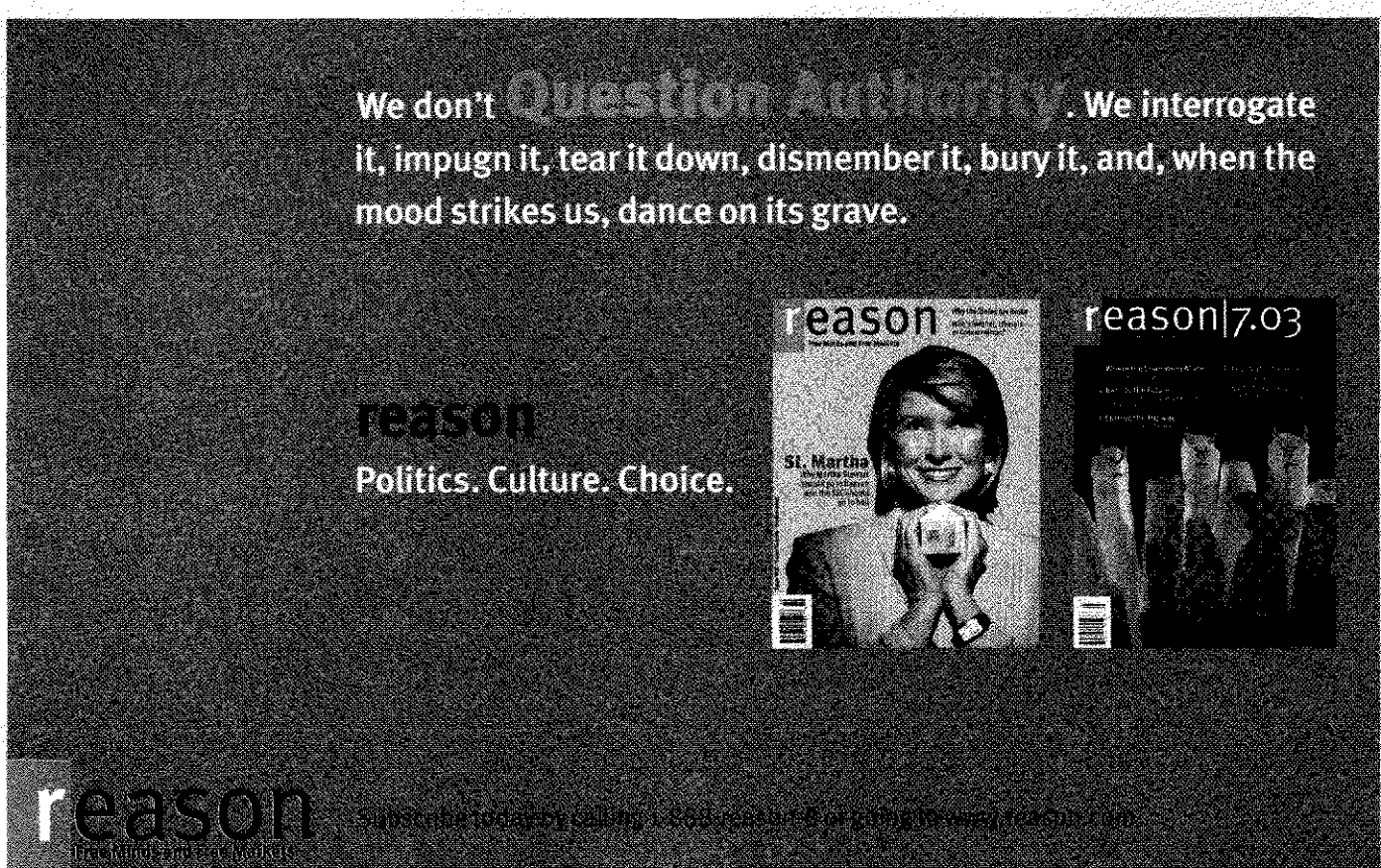
The ones who break the rules too severely end up being avoided in one manner or another. The "black hole" lists for open relays, for example, already have a large number of ISPs refusing e-mail from anyone who fails to follow the rules concerning open relays. No legislation was required for this.

Market forces would bring most of the Internet community on board eventually, although U.S. legislation would surely give it a jump-start. In the meantime, the customers of ISPs that use the method can have an address book of those for whom they'll "spot" the penny. Senders not on that list can go into the "no penny" folder for later review. This is better than the black hole system, where senders unfortunate enough to share an IP address with a known spammer cannot send e-mail to half the Internet! Instead of e-mail falling into a black hole, the sender would receive a polite note requesting $0.01 to deliver the e-mail.

All in all, I think the method is worth additional investigation. The only people who really can't afford a penny per e-mail are the ones who send out millions per day: spammers.

Alvin Sylvain
Temecula, CA

I know Wendy Grossman has put tremendous thought into the community-based solution to the spam problem, but I have to ask one question: Why


We don't Question Authority. We interrogate it, impugn it, tear it down, dismember it, bury it, and, when the mood strikes us, dance on its grave.
reason
Politics. Culture. Choice.
reason
St. Martha
reason|7.03
reason
Free Minds and Free Markets

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is the burden of controlling unsavory activity to be placed on the community? In the offline world, isn't that what we have laws for?

I am one of those libertarians turned rabid anti-spam law advocates precisely because letting spammers continue unfettered is anti-libertarian. "Do what you want unless it harms someone else" is a libertarian credo, but spam clearly harms other people. Even if a technology-based solution works flawlessly, I still must advocate laws and enforcement, simply because spam harms others.

Spammers steal other people's resources: bandwidth, server capacity, whois databases, netadmin time, time spent deleting. When people are stealing, we don't solve it through benign vigilantism. We call the cops.

Mark Metz
Hollywood, FL

Queer Science

In her review and indictment of J. Michael Bailey's book ("Queer Science," November), Deirdre McCloskey uses no evidence to refute his findings. Furthermore, she fails to explain just how any of Bailey's theories would be harmful to the transgender community.

McCloskey implies that Bailey has a "conservative" agenda because his sex research has led him to classify male-to-female transsexuals into two distinct categories. She provides no alternate theories or meaningful rebuttal, but instead lambastes Bailey for daring to study the issue.

Perhaps McCloskey wants everyone to believe that there are male and female souls floating about that, through some trick of nature, are assigned to mismatched bodies. That is fine and good, but it isn't science. Her reaction to Bailey's research is like a child covering his or her ears and screaming to avoid hearing the truth.

Bailey is not a Christian fundamentalist with a political agenda, nor is he homophobic. He is a psychologist looking to illuminate the mysteries of gender dysphoria. It is unfortunate that McCloskey, a supposed scholar, would respond in such an unscholarly fashion. It is also unfortunate that a woman who preaches acceptance takes arbitrary swings at institutions like the Veterans of Foreign Wars, implying they are all homophobic yokels. McCloskey's article was not a review; it was a rant.

Ron Holsey
Myrtle Beach, SC

Deirdre McCloskey replies: I do provide evidence—for instance, the evidence of my own life and, indeed, of the Chicago women and children Bailey so brutally exploited to write his book, some of whom I know well. My view of gender crossing is the standard scientific one—not Professor Bailey's or (it seems) Ron Holsey's. The "alternative theory" Holsey asks for is available in the numerous competent books and articles on transgender, few of which, I'm afraid, Professor Bailey has read. Providing *new* evidence is the responsibility of people who want to *change* science. Bailey has none.

I did not accuse Bailey of being a Christian fundamentalist. As a devout Christian myself, I saw no sign of religious depth in his book. I said, what is true, that the homophobes and the transphobes and, yes, the Christian fundamentalists of a certain sort are delighted by his book, and are even now actively conspiring to use it to reverse the freedoms flowering since the 1960s.

If Bailey and his friends do not want people to be upset by their work, they should do better work. It is not I but the head of the Kinsey Institute who called Bailey's book "not science," an opinion then repeated by the president of the main scientific and therapeutic group dealing with transgenders.

My one regret—I thank Ron Holsey for giving me a chance to repair some of the damage—is my ill-advised witticism about homophobic yokels at the Veterans of Foreign Wars. I apologize. Of course not all members of the VFW are to be classed with Bailey's friends. It was unfair of me to associate defenders of our freedom with such bitter enemies of it.

The Gipper and the Hedgehog

Glenn Garvin writes that Jimmy Carter has a degree in nuclear physics ("The Gipper and the Hedgehog," November).

Carter does not have a degree in nuclear physics, nor does he have a degree in physics. Carter has a B.S. from the U.S. Naval Academy. This degree, awarded in 1946, was not in physics. He took some classes in nuclear engineering and nuclear physics while in the nuclear submarine training program at Union College, but he did not receive a degree from that college.

Henry E. Heatherly
Lafayette, LA

reason news

We're happy to announce that with this issue, Jesse Walker becomes managing editor of reason. Brian Doherty, returning after a six-month leave to write a book about the Burning Man festival due out from Little, Brown and Company this summer, becomes a senior editor.

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Oppression raises wages; copyrights vs. public debate; radio killed the Soviet star; is outsider art a crime?; living wages, killing restaurants; big-spender Bush; patriot vs. PATRIOT Act

Satire as "libel"

Where the Wild Suits Are

Jesse Walker

IF THIN-SKINNED Texas officials get their way, the satirists at *The Onion* had better watch out... or at least begin printing "Just Kidding" in huge red letters across each page.

In 1999 Denton County Judge Darlene Whitten sentenced 13-year-old Christopher Beamon to a week in a "juvenile facility." Beamon, assigned to write a Halloween horror story, had produced a tale in which he accidentally shot his teacher and several students. This was apparently a no-no in post-Columbine America.

Shortly afterward, Rose Farley of *The Dallas Observer* wrote a parody claiming that Cindy Bradley, "a diminutive 6-year-old," had been jailed for "suspicion of making a terroristic threat"—in the form of a book report on *Where the Wild Things Are*. According to Farley's story, school officials "were alarmed by acts of 'cannibalism, fanaticism, and disorderly conduct'" in the book, not to mention the line "I'LL EAT YOU UP." The story quoted Judge Whitten as saying, "Any implication of violence in a school situation, even if it was just contained in a first-grader's book report, is reason enough for panic and overreaction."

Whitten responded with a lawsuit. So did District Attorney

Bruce Isaacks, whom the story quoted as saying, "We've considered having her certified to stand trial as an adult, but even in Texas there are limits." Whitten and Isaacks allege that, because the story was not *labeled* satire, it was libel.

A state appeals court refused to dismiss the case, holding that a jury should decide whether Farley committed defamation. New Times, parent company of the *Observer*, is now asking the state Supreme Court to step in rather than let the case reach trial, arguing that failing to automatically recognize parodies as protected speech will have a chilling effect on other satirists. ▮

Oppression raises wages

Sweatshops Forever

Ronald Bailey

WANT TO IMPROVE the lives of poor workers in developing countries? Then rush out and buy a pair of Nikes or Levi Strauss jeans, says a new report by the National Bureau of Economic Research.

The authors decided to test the burgeoning anti-sweatshop movement's claims that multinational corporations oppress workers in developing countries. A recent *Albany Times-Union* column summarizes the familiar argument: "It's common knowledge [sweatshops] exist in Third World countries, and that much of the cheap labor that produces the most expensive sports apparel and sneakers are young

"It's all too easy to be lulled into a false sense of optimism by the success of airline deregulation....Despite studies showing the immense cost of regulation...most of the agencies are solidly entrenched, not just in the political system but in people's minds."
—Robert Poole Jr., Editorial

"In the name of intellectual freedom, the Communications Act [of 1979] stifles the ideas, views, and interests of broadcasters."
—Winston N. Martin, "The Decline and Fall of Broadcasters' Rights"

"You've got to hand it to the U.S. Social Security Administration. What other agent of any government could say...that it takes more from American payrolls than the Internal Revenue Service, and that its own employees want no part of the program they administer?"
—Warren J. Shore, "The Great 1979 Social Security Heist"

"The present apparatus of broadcast regulation cheats the broadcast journalist of the independence promised by the First Amendment and so cheats the American people of the vigor and diversity they should expect from *all* of our nation's media."
—Bill Monroe, "Unchain the Electronic Media"

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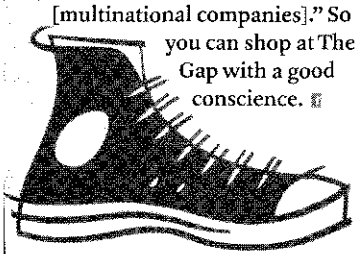
children paid a substandard wage and working in horrendous conditions."

But when economists looked at reams of economic data on wages and workers' rights in developing countries, they found that multinationals generally paid more—often a lot more—than the wages offered by locally owned companies. The study cites evidence that affiliates of U.S. multinationals "pay a wage premium that ranges from 40 percent in high-income countries to 100 percent, or double the local average wage, in low-income countries."

Vietnamese workers in foreign-owned apparel and footwear factories rank in the top 20 percent of the population by household expenditure. Indonesian workers in Nike subcontractor factories earned $670 per year, compared to the average minimum wage of $134. In Mexico firms that exported more than 80 percent of their output paid wages that were 58 percent to 67 percent higher than wages paid by domestic firms.

The researchers point out that foreign direct investment is positively correlated with the number of International Labor Organization conventions ratified, and that multinational investment "is positively correlated with the right to establish free unions, the right to strike, the right to collective bargaining, and the protection of union members." The study concludes: "In short, there is no solid evidence that countries with poorly protected worker rights attract [multinational companies]." So you can shop at The Gap with a good conscience. ▯

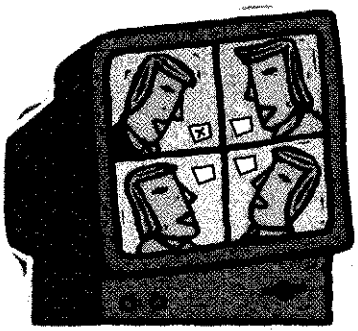


Copyrights vs. public debate

No-Confidence Votes

Julian Sanchez

ELECTRONIC touchscreen voting was supposed to rescue us from the vagaries of butterfly ballots and dimpled chads, but e-voting is turning out to have its own share of problems. And far from displaying the openness that is the hallmark of a trustworthy election system, one of the leading e-voting companies, Diebold, is using copyright law against its critics.



Last summer a joint report from researchers at Rice and Johns Hopkins universities concluded that Diebold's software "is far below even the most minimal security standards applicable in other contexts." Other critics allege that upgrades to Diebold software used in the most recent California elections had not been independently certified (a violation of state law), and much has been made of an August fundraising letter in which Diebold CEO Walden O'Dell told Buckeye State Republicans he was "committed to helping Ohio deliver its electoral votes to the president next year."

In August, when hackers leaked some 15,000 internal messages and memoranda detailing security flaws, written between January 1999 and March 2003, the company decided enough was enough. It launched a massive effort to prevent their dissemination, claiming that the student activists who have posted the documents to the Internet are committing a crime under the Digital Millennium Copyright Act (DMCA). For months, the company engaged in a legal game of cat and mouse with an ever-increasing number of university-based Web mirrors that have some protection from lawsuits under the DMCA's "safe harbor" for academic sites.

Diebold backed off only after the Electronic Frontier Foundation entered the fray, claiming use of the documents in public debate is protected "fair use" and that Diebold was abusing copyright law to stifle criticism. ▯

Radio killed the Soviet star

Only Rock 'n' Roll?

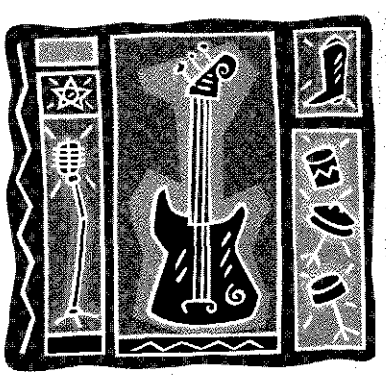
Brandon Turner

THE FALL OF communism has been attributed to many factors, from the system's economic failings to the hard line taken by Ronald Reagan. Hungarian ambassador András Simonyi, who in November spoke at Cleveland's Rock and Roll Hall of Fame, believes at least some credit is due to the influence of bloc-rocking beats.

Simonyi first encountered rock 'n' roll in Denmark in the 1960s, a time when Hungary was in the middle of nearly half a century of Communist rule. "Rock music represented freedom to me," Simonyi says, "freedom I first experienced in Denmark and missed very much after returning to Hungary."

One of few young people on his block who spoke English, he embraced the message of rock culture. "Given that rock already carried a revolutionary message in the free West," he says, "you can imagine what effect that music had in the un-free East."

The message of rock was heard even by those who didn't understand English. "Nonspeakers instinctively felt that rock music was about freedom—the freedom to form your own band, the freedom to create your own music, the freedom to choose »



Quotes

"Good taste is the worst vice ever invented." ▯

—Dame Edith Sitwell, English poet and eccentric, in New Zealand's *Christchurch Press*, November 1, 2003

"The best way to end this problem and the war it has brought us is to legalize drugs." ▯

—Bogota's newly elected mayor, Lucho Garzon, on how to stop Colombia's constant bloodshed, quoted in *El Colombiano* during his campaign

Source

The world's powerhouse economy to beat is...Finland's? So says the World Economic Forum's *Global Competitiveness Report*, which ranks the long-term growth potential of 102 countries by examining the macroeconomic environment, public institutions, and technological development and innovation. Rounding out the top five were the United States, Sweden, Denmark, and Taiwan, while "economic miracle" China fell in the rankings due to "concerns about red tape, corruption, judicial independence, and trade barriers." The index underscored the centrality of stable public institutions, finding that an increase in the quality of the rule of law from "the current relatively low level of Ukraine to the 'middling' level of South Africa" would be associated in the long term with a fourfold increase in incomes. The study found no statistical relationship between foreign aid and improvements in growth or competitiveness. The report is at www.weforum.org/gcr2003. ▯

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Brickbats

Moscow authorities are considering a ban on all public kissing, even between spouses.

Video store owner Marty Arno faces $6,000 in fines because health inspectors caught him with an item banned in New York City businesses: an ashtray.

The European Union is funding a school for game show hostesses in Italy. The budding Vanna Whites will learn proper diction, presenting skills, makeup, singing, dancing, and acting. The bill to European taxpayers: about $1.6 million.

Informants told Atlanta police that 17-year-old Awot Gebreyesus had bragged about killing a man who had recently been murdered. Three people said Gebreyesus was with them at the time of the murder, but he was arrested and jailed anyway, largely because police found what they thought was blood on one of his T-shirts. Five months later, lab tests revealed that it was red paint.

Las Vegas police officer Ryan McCulloch has racked up three DUI offenses in 18 months. The first time he was stopped, after crashing into a parked car, he tested at twice the legal limit for blood alcohol. He wasn't arrested, but was given a misdemeanor citation, which was later dismissed by prosecutors. After his second offense, McCulloch did have his license revoked and was temporarily suspended. But after the suspension was lifted, he returned to work and continued to drive a police cruiser, despite having no license. Officials insist he hasn't received preferential treatment because he's a cop.

Dozens of residents in Florida's Broward County received as many as three extra mail-in ballots for recent elections. No one is sure how many extra ballots were mailed. County officials attribute the problem to the fact that thousands of people have moved, died, or been imprisoned but are still on the rolls.

Wayne Mansfield of Madison, Ohio, couldn't understand why the neighbors kept staring at his house on Halloween. Then he found out the county sheriff had sent 300 letters to his neighbors saying a convicted sex offender lived there. Apparently, a man who was convicted of a sex offense falsely gave Mansfield's address to the authorities, who didn't make much of an effort to confirm the information before mailing out the letters.

Days after an Afghan émigré made headlines by competing in an international beauty pageant, Afghanistan's Supreme Court banned beauty contests. The court held that such contests are "totally un-Islamic" and "against Afghan tradition, human honor and dignity," according to the state news agency, Bhakter. The report added, "Based on the holy religion of Islam anyone who attends such contests no matter what religion or country they belong to is condemned to hell."

Charles Oliver

›and listen to songs you like best," Simonyi says. He believes it was only natural for those ideas to "spill over into politics, reinforcing the freedom of speech, freedom of expression, and the free dissemination of ideas," all of which, he says, "scared the hell out of the Communist establishment."

Hungarian communism collapsed in 1989, and Simonyi, now 51, still believes rock can set you free. "Today, there is criticism that rock is imperialistic," he says. "Nonsense. Only dictators are afraid of rock."

Is outsider art a crime?

Junkman Jailed

Jesse Walker

ALAN DAVIS, 47, says he's a political prisoner. The Florida artist spent more than a decade refusing the Seminole County authorities' demands that he clean up his yard, which until November was cluttered with airplane and auto parts, wood and metal and fiberglass, fire extinguishers and household fixtures and barrels. Davis used the materials to make his art, which includes statues, assemblages, and conceptual pieces. Among the latter: an assortment of crappers titled *Your Constitutional Rights Going Down the Toilet*.

Then the sheriff's office expropriated it all to sell at auction, a jury found Davis guilty of felony littering, and Judge Gene Stephenson sentenced him to a year and a day in jail, telling him his actions have "torn at the moral fiber of the community, of the state." Many of Davis' neighbors testified against him at his trial, and some were active in trying to shut down his workshop before then. Jan Schmidt, who lived three doors from Davis, had launched a petition to force the man dubbed the Florida Junkman to clean up his yard, arguing that it was depressing property values and that it intimidated her.

Since his imprisonment, Davis has vowed to sue the county employees who removed his property, accusing them of trespassing and theft.

Living wages, killing restaurants

Sin of Wages

Tim Cavanaugh

BETWEEN ever-expanding "estimated" tax targets for tip income, draconian restaurant licensing restrictions, and proposals for menu labeling laws, you might think governments had already done their utmost to eliminate waiting tables for tips as a viable form of employment. But the San Francisco Board of Supervisors is, as always, one step beyond the rest.

The City by the Bay recently upped its minimum wage to $8.50 an hour, a hike that includes waitresses' and waiters' pay. Restaurateurs, who have until February to comply with the new law, are already discussing plans to cut back benefits and freeze hiring to offset the new expense.

San Francisco isn't alone in its commitment to "living wage" requirements. Santa Fe went to an $8.50 minimum wage earlier this year. Madison, Wisconsin, is aiming for $7.50, while the

Wisconsin state legislature is considering a proposal to make that minimum statewide. New Orleans passed a $6.15 minimum last year, only to see it struck down in court.

Aside from making life difficult for small-business owners, and by extension their employees, these efforts have another thing in common: Their proponents all cite a discredited New Jersey–Pennsylvania study by economists David Card and Alan Krueger that appeared to find that minimum wage laws have »

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Balance Sheet

Jeff A. Taylor

Protected Shirt

A panel of the U.S. Court of Appeals for the 4th Circuit unanimously rules that a Virginia middle school had no good reason to ban an "NRA Sports Shooting Camp" T-shirt just because it had a gun on it. The school district could not show that the shirt had caused any disturbance.

Kyoto Climax

Signals from Moscow are typically murky, but it appears that Russia will help kill the Kyoto global warming treaty for good. Russian officials obviously do not like the cost of Kyoto, but they want to avoid upsetting Europeans who love it.

Download Dash

Mega-retailer Wal-Mart joins the great stampede to sell music online. The competition is expected to drive song prices below the 99 cents charged by Napster and Apple's iTunes.

Metal Fatigue

Research published in the journal *Environmental Science & Technology* finds that mercury levels in tuna off Hawaii have not risen in 27 years. "We have about tripled the mercury in the atmosphere, and therefore it should be tripled in the ocean, right? But maybe mercury that occurs in fish is a natural thing, and it may have been there all along," one author explains.

Hot Records

The Pentagon begins to investigate how an Army contractor came to have almost 5 million passenger records from JetBlue airline. The Transportation Security Administration's role remains unclear.

Shored Up

Responding to complaints about poor service, Dell moves some support jobs back to the U.S. from India. The decision shows that the best solution isn't always the cheapest, allaying fears of a "race to the bottom."

Booze Hounds

A Washington, D.C., plastic surgeon represented by super-lawyer David Boies files suit against liquor companies, charging that they market products to minors in order to hook them on booze.

Foot Soldiers

The ruling coalition in Iraq continues to pay all the workers at state-run shoe factories and other firms in order to keep the workers off the streets.

Panty Waste

Responding to political discord in the South, the Bush administration hits Chinese bras and nightgowns with quotas, bringing promises of reprisal from the Chinese.

Doctors' Disorder

Researchers find that less than 10 percent of American hospitals make full use of computers to catch errors and standardize doctors' orders. This despite a 2000 report which found that medical errors kill almost 100,000 people and cost some $38 billion yearly.

Dirty Money

The Treasury Department vows to blacklist institutions that don't comply with currency and customer tracking rules. The primary targets are foreign banks accused of "money laundering," i.e., not reporting cash to Uncle Sam.

Clogged Filter

Research company Gartner advises corporations not to depend on anti-spam laws like the federal CAN-SPAM to stop spam. "CAN-SPAM will likely not change spammer behavior," its report concludes.

Justice Delayed

Students who are tardy to school for a third time receive $165 citations from Whittier, California, cops. The Whittier High School principal explains that too many kids were coming in late.

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Data

Big-Spender Bush

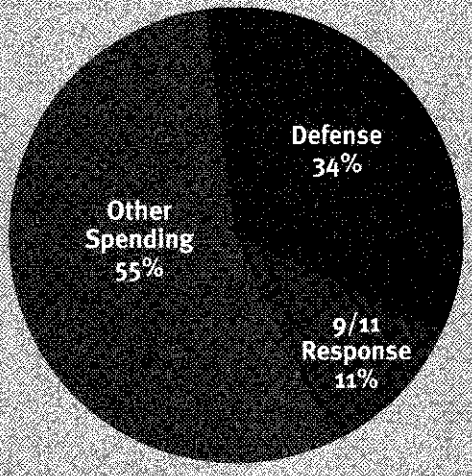
Julian Sanchez

George W. Bush is a fiscal conservative, right? Maybe not. Federal discretionary spending, which grew at an annual average of 2.4 percent during the 1990s, was up 12.5 percent in fiscal year 2003. Since 2001, total federal spending has grown by 16 percent.

Administration apologists suggest this is only to be expected in light of the war on terror. Yet researchers at the conservative Heritage Foundation calculate that less than half of the new spending is related to defense, homeland security, or other costs associated with the 9/11 attacks. Total federal spending is now at the highest real per-household rate since World War II, when (as during the Korean War, though not Vietnam) nonwar spending shrank to compensate for higher military expenditures.

Much of the growth was in "nondiscretionary" entitlement spending on programs such as Social Security and Medicare—spending that, despite the label, lawmakers *do* ultimately have discretion to change. High-growth categories included education spending (up 65 percent) and unemployment benefit payments (up 85 percent). Heritage also counted $80 billion in corporate welfare and $20 billion in pork barrel projects. But hey, what's a few billion here and there?

Spending Increases Since 9/11



Source: Heritage Foundation

› no effect on low-skill employment. Although based on skewed and in many cases false data, the Card-Krueger study, a favorite of Clinton Labor Secretary Robert Reich, refuses to die. Alas, the same can't be said for a restaurant or shop expensed out of business. ▯

Mags for adult rockers

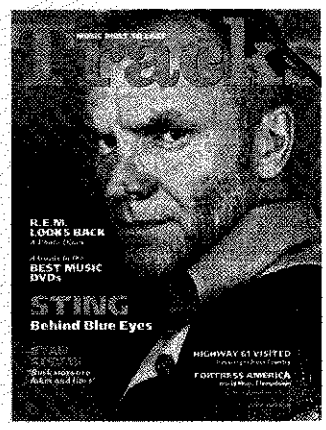
Alt Business

Matt Welch

On November 18 a music publishing subculture that had been quietly thriving far from the bright glare of Manhattan suddenly found itself thrust into the limelight. *Tracks*, a New York–based "music magazine for adults," made its ballyhooed debut.

The cover boy may have been baby boomer snoozer Sting, but much of the magazine's meat was dedicated to a loose genre of music that is as increasingly popular as it is hard to name: "alt country," "roots rock," "Americana." One thing artists categorized thus have in common is that they manage to sell impressive numbers of records without being played much on commercial radio. As Adam Smith noted, division of labor is limited by the extent of the market. While geographically constrained stations may have to pander with poppy pap, publications with a potentially national audience can afford to focus on (and nurture) niche cultural movements.

The premiere issue of *Tracks* included a first-person essay by alt country heartthrob Ryan Adams, a profile of public radio twang champions My Morning Jacket, and reviews of new CDs by Emmylou Harris and Randy Newman. In an interview with *The Philadelphia Inquirer*, *Tracks*' 37-year-old editor, Alan Light, said he was trying to produce a magazine for people like a friend of his who is really into such Americana founding fathers



as the Jayhawks and Wilco. "Obviously he was learning about these things," Light told the *Inquirer*, "but it wasn't from magazines."

At least, not the kind of magazines that get profiled twice in a month by *The New York Times*. Alt country/Americana supports at least three other successful six-times-a-year glossies. There is *No Depression*, the genre's bible (and graybeard, having launched in 1995 and built circulation up to 30,000), which was founded in Seattle but is now co-edited from Nashville, Tennessee, and Durham, North Carolina. And there's the 21st-century upstarts *Paste* (from Atlanta, circulation 60,000) and *Harp* (Maryland, 30,000).

Each has a slightly different emphasis—*Tracks*, which has an initial print run of 100,000, strays the most, being the only one to dream of profiling Robert Plant—but all benefit from the same demographic reality: Older music fanatics buy more and download less. The Recording Industry Association of America reports that 56 percent of music in 2002 was bought by listeners over 30, while a Forrester Research study from last August showed that 50 percent of con-

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Patriot vs. PATRIOT Act

Julian Sanchez

Nat Hentoff

For decades *Village Voice* columnist Nat Hentoff has been one of America's most trenchant defenders of civil liberties. The most recent of his many books, *The War on the Bill of Rights—and the Gathering Resistance* (Seven Stories Press), was published in 2003; it explores the USA PATRIOT Act and other threats to freedom in the wake of 9/11. Hentoff spoke with Assistant Editor Julian Sanchez in November.

Q: What threats to civil liberties haven't gotten enough exposure?

A: The leaked draft of PATRIOT II prompted considerable concern, so the administration is now trying to get a lot of what was included there piecemeal. Also, they're still pushing for the right to get administrative subpoenas for records, none of which have to go past a judge. And Ashcroft rounded up hundreds of non-Americans for "detention"—that's prison—for months.

MATRIX is a privately run search engine in Florida, funded in part by the Department of Defense and the Department of Homeland Security. It's an attempt to get back to Total Information Awareness, which was killed in Congress. It combines databases of all kinds. It's not a federal operation, but it's being sold to the states. Seven others have already signed on.

Q: Are there expanded law enforcement powers that you *would* support now?

A: They don't need new powers; they need people who know what they're doing. I think it's very unfortunate that [CIA Director] George Tenet, who's been very incompetent, hasn't been fired, because the intelligence system before 9/11 was a mess. The former FBI head William Webster has said they don't follow up and investigate and infiltrate anymore. They don't know what to do with what they already have.

Q: What can be done to resist the erosion of liberties?

A: The media have been a culprit in this because of the goddamned 24-hour news cycle, where they do a two-day story and then it's back to Kobe Bryant. But they are finally starting to cover the members of Congress who are voicing concerns about some of these things, pushed by both conservative and liberal group, like the American Conservative Union and the ACLU. Bob Barr now works with both.

At a personal level, the first thing to do is keep up with your congressperson and ask, "What are you doing?" Join the ACLU, which has done the most detailed analysis of these threats. Three states and 214 cities and counties have passed Bill of Rights defense bills. It's the equivalent of the Committees of Correspondence that began the American Revolution. Which is appropriate, because we're the patriots. Ashcroft and the others are subverting American ideals.

sumers younger than 23 use file sharing programs, compared to just 10 percent of those 23 and older.

If *Tracks* takes off, or if an artist like Wilco duplicates the left-field success of such radio-unfriendly blockbusters as the soundtracks from *Buena Vista Social Club* and *O Brother, Where Art Thou?*, alt country may well have finished its long journey from cultural basement to center stage. Blame commercial radio all you want, but thank commercial publishers when the former finally starts playing good music.

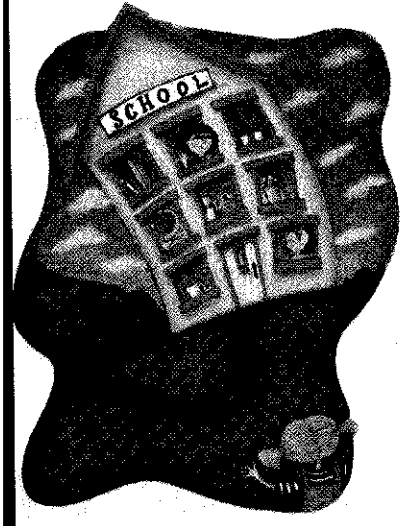
Strange study habits at GAO

Bad Report Card

Tim Cavanaugh

DOES PRIVATE management of failing public schools make a difference? A recent General Accounting Office (GAO) report looked for a consistent trend, but with little success. Comparing privately managed public schools with similar public schools in Cleveland, Denver, Detroit, Phoenix, St. Paul, and San Francisco, the GAO noted significantly higher reading and math scores in some cities, lower scores in others, and no difference in the rest.

The GAO's results are, predictably, being seized upon by opponents of private school management. "GAO finds no gains in privately run public schools," clucked a report by the National Education Association, the national teachers' union. But can the study really justify such a broad conclusion?



Schools that get handed over to private management are often those with the poorest performance records to begin with. Thus, while it's possible to compare these with similar schools in their regions, the privately managed schools are starting out at a disadvantage. Comparing performance over time at privately managed schools would be more revealing than comparisons between schools, and here there is more reason to believe that private management's track record is good. The GAO report's "lack of test score data for successive years," not to mention the odd choice to focus on only one grade, rather than the performance of the school as a whole, makes it a thin reed upon which to hang any generalizations about the effectiveness of private management.

Of course, private management without genuine competition—in other words, the sort of private management GAO examined—omits one of the biggest benefits of genuine private education: When parents can compare performance for themselves, the companies that improved achievement find more business flowing their way, while those that failed to do so would soon be displaced.

So under monopoly conditions, does private management make an individual school better, make it worse, or not make much difference either way? The data, and the jury, are still out.

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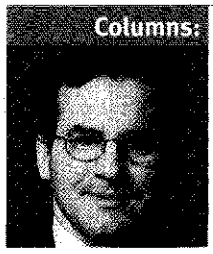

A Week of Eating Dangerously

Searching for détente between man and beast

JUMPY IS THE name of my eldest son's tree frog. He is misnamed, in that he does not jump. He barely moves, preferring to bask under a heat lamp, awaiting his next live cricket. Even with lunch skittering about the cage, Jumpy barely bats an eye. Eventually the cricket crawls by his mouth and is eaten. A sweet, slow, easy life, right?

Yet some people would claim we are oppressing Jumpy. That he is debased and wronged, being owned by my son. That's nonsense: He's better off on the dresser. No predators. No fear his crickets won't show up on time.

Whether you consider Jumpy fortunate or oppressed is a good barometer of where you come down on the general animal rights debate. Most people, secure in their personhood and assured of the value of humanity, are willing to use animals for human purposes—to eat meat, wear leather, and keep pets.

Yet a small but very vocal minority tries to mask a sneering disregard for humanity with a concern for animals so extreme it would look exaggerated in a silent movie. Accompanying this disdain for people is a self-righteous delusion that they alone are saving the planet with their steady diet of self-denial. They believe each time you eat a soy burger, Earth gives you a big, grinning thumbs-up.

So I decided to tempt the wrath of such scolds by eating, drinking, and living in as un-P.C. a manner as I could for a week. I would indulge in forbidden meats. Horse, if I could find it. Whatever the law allowed. Herewith, a diary of my week of eating dangerously.

Friday: I lie in bed and plot out breakfast. My impulse is to stroll into the boy's room and munch one of Jumpy's crickets. That strikes me as a bold declaration of intent, seasoned with a subtle stab at Disney's vexatious Jiminy Cricket. "Just let your conscience be your—" CRUNCH!

I'm girding myself to do it when my wife stirs. I run my plan by her. "That's disgusting," she says. She may have a point. So instead I breakfast at the Tokyo Lunch Box, where I do my share in the despoiling of the ocean's dwindling bounty with tuna and salmon sushi. Mmmm, fresh.

Self-denying environmentally conscious eaters stress how much impact their personal consumption decisions make, but for each treadlightly vegetarian in the United States there are a thousand Asians who'd dice the last whale on Earth into cubes and eat it on vinegared rice with great pleasure and without a second thought.

As I break apart my chopsticks, I can't help but ruefully smile. Chopsticks are the most Earth-unfriendly part of any meal. China alone produces some 60 billion pairs a year, and experts fear the entire country will soon be deforested. This never registers with green types, since Disney has yet to make a movie starring a pair of white-gloved chopsticks.

Saturday: At lunch I repair to a local spot called C.J.'s Lounge for a $1 draft beer and a steak sandwich. It's really good—tender, hot, on a fresh roll. Beef, perhaps because it's so delicious, is the No. 1 bugbear of People for the Ethical Treatment of Animals, though the "Meat is Murder" argument is based on a fallacy: that were the cow not slaughtered to make this very tasty steak, Bessie would still be in a field cavorting with her bovine pals.

The truth is that nearly every cow alive owes its existence to either the meat or the dairy industry, and that should the fad of vegetari-

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anism ever really affect those businesses, animal lives would be lost, not gained.

Sunday: On that note, the next day I brave McDonald's, the belly of the beast for the cow-hugging set. They hate McDonald's because it grinds up more beef than any other enterprise, and because its heinous, grossly American model of mechanized cow slaughter is so successfully spreading all across the globe.

This irks those who, indoctrinated by the adult version of Disney cartoons, National Public Radio, are morally opposed to any foreign cuisine that isn't a corn tortilla baked on a hot stone. I order a cheeseburger. I can't say it's good—this is McDonald's. But it suffices.

Monday: Veal stew. The calves, apparently, live their lives in these little stalls, thus making their meat more tender. This breaks the hearts of certain people. But I've seen plenty of cows in the field, and they look pretty naturally sedentary to me, making Jumpy seem like Gregory Hines. So one has to wonder just how much suffering is truly involved.

My wife initially balks. "Judaism believes in the humane treatment of animals," she says, but gives in, buys the veal, and serves it up in a stew of carrots and peas over thick slices of bread. Very savory. Chewing luxuriously, I dangle before myself the mental image of a calf in its little stall to see if it upsets my gustatory pleasure. Not a qualm. I've spent 17 years in a little box at the *Chicago Sun-Times*, where I work, and nobody is having a pity party for me. And hey, veal tastes better than beef, so the little fellow's sacrifice is not in vain.

Tuesday: Time to up the ante. I visit a five-star restaurant for a feast of foie gras—slices of the livers of geese that were force-fed until they nearly burst. During the two-and-a-half-hour meal, I eat my way through a glittering array of sinful yet heavenly preparations—cured foie gras au torchon with caramelized pears and a truffle vinaigrette, lingonberry foie gras draped in 24-karat gold foil, chocolate foie gras on Gran Marnier French toast—washed down with Sauternes.

Instead of genuine, traditional force-fed geese, the chef uses a breed of Moulard duck that gorges itself continually, left to its own devices. (Who doesn't?) I'm completely won over.

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Wednesday: After all that foie gras, food isn't really a priority. Breakfast is a slice of toast. Later in the day, I stop by my liquor store to see what kind of totalitarian regimes I can support. I settle on a bottle of Barbancourt, my favorite rum, the finest the cruel Haitian kleptocracy can produce. Oh, well. It's not as if we don't put money into the pockets of the fascist Chinese Communist megastate with every pair of pants we buy. It's a small world after all.

Thursday: My efforts to locate horse steaks failed. So I close out the week with a Tang-and-aerosol-cheese party in my office: a tribute to highly processed food, also doing their part to destroy our health and the planet. My colleagues enjoy their aerosol cheese, which I serve with Chivas Regal. I had worried that my little experiment would somehow offend them, but they seem more puzzled than anything else.

What did I learn from the week? I keep thinking of the happy hen eggs I saw that cost twice as much as regular eggs. The American food monolith, with its chicken mills and slaughterhouses, wasn't created because its owners are cruel. It was created because it's cheaper to make food that way, and most people live close to the bone.

Organic food is a luxury, another bit of rich American conspicuous consumption. And while eating organic has some impact, I'm sure, that impact is dwarfed by the colossal self-righteousness of its practitioners.

That said, utter indifference doesn't quite suit me either—it couldn't suit someone who spends as much time as I do tending to the needs of a tree frog. I found myself most attracted to a friend's approach to animals: treat 'em decently and then eat 'em guiltlessly.

A line from the Greek poet Bion comes to mind: "Little boys throw stones at frogs in jest, though the frogs die, not in jest, but in earnest." This doesn't suggest we should try to forcibly change the ways of little boys. Nor does it ignore the sacrifice that the frogs make on their behalf. ■

Neil Steinberg is a columnist for the Chicago Sun-Times, where an earlier version of this column appeared.

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Hating Jews

When do anti-Zionism and anti-Semitism overlap?

LAST NOVEMBER, AN arson attack against a Jewish school in Paris prompted *Le Monde*, a left-leaning daily hardly known for pro-Israeli sympathies, to editorialize that "disapproval and condemnation of Israel's policy in the Palestinian territories have clearly lowered the barrier—already unclear to some—between anti-Zionism and anti-Semitism."

The resurgence of anti-Semitism worldwide, fueled largely by the backlash against Israel since the start of the second Palestinian *intifada* in 2000, has been the subject of much heated discussion. At the heart of the debate is the question: Has criticism of Israeli policies become a vehicle and a cover for anti-Jewish prejudices that are otherwise unspeakable in polite society?

Or, conversely, has the charge of anti-Semitism become an all-too-convenient way to silence critics of Israel and of the policies of Ariel Sharon's government?

It is beyond dispute that the hatred of Israel that now emanates from large sections of the Arab and Muslim worlds is intertwined with the most virulent strain of Jew-hatred.

A typical example is the screed delivered by Malaysia's then–prime minister, Mahathir Mohamad, to the 10th Islamic Summit in October 2003, in which he declared that "the Jews rule this world by proxy" and mused that "they invented and successfully promoted socialism, communism, human rights, and democracy" as means to gain that control. For years now, the mostly government-run media in Arab countries, including "moderate" ones such as Egypt, have been feeding their audiences a stream of anti-Semitic vitriol that would do Nazi Germany proud.

Some of this fare is documented in the new book *The Return of Anti-Semitism* (Encounter Books), by *Commentary* Senior Editor Gabriel Schoenfeld. There's the recycling of anti-Semitic forgeries and canards, including the infamous *Protocols of the Elders of Zion*. There's Holocaust denial, sometimes accompanied by expressions of regret that the Holocaust *didn't* happen. There's the reappearance of the "blood libel" that accuses the Jews of using the blood of Gentile children in their rituals.

It has also been obvious for some time that the anti-Israeli backlash in Western Europe has been accompanied by a disturbing surge in literal Jew bashing—almost all of it perpetrated by Arab immigrant youths. From Paris to Berlin to Amsterdam, Jews wearing religious garb or Stars of David have been beaten, synagogues have been firebombed, and rocks have been thrown at buses carrying Jewish schoolchildren.

But things get murky when it comes to the charge that anti-Semitism manifests itself in much of the hostility directed at Israel and its treatment of Palestinians. Schoenfeld unequivocally endorses this view as he documents the vilification of Israel by respectable European intellectuals and the European media. Even in the United States, he claims, support for the Palestinian cause on progressive, multicultural campuses such as Berkeley has been tainted with Jew baiting.

This charge has been made by others, notably Harvard President Lawrence Summers in a speech delivered in late 2002. While Summers was careful to note that "there is much to be debated about the Middle East and much in Israel's foreign and defense policy that can be and should be vigorously challenged," some accused him of seeking to stifle legitimate debate on these issues by equating criticism of Israel with bigotry.

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Sorting out the rights and wrongs in the Israeli-Palestinian conflict is beyond the scope of this column. Schoenfeld makes a convincing case that European media coverage has been skewed. Israeli retaliation for terrorist acts often has received far more attention than the terrorist acts themselves; civilian casualties in operations primarily directed at military targets have been equated with murderous violence that intentionally targets civilians.

It is also true that the condemnation of Israel reeks of double standards. A deafening silence surrounds far worse human rights violations by numerous Third World regimes. There is a movement on American college campuses calling for divestment from companies that do business with Israel; in Europe, hundreds of academics have signed a petition urging a moratorium on research grants to Israeli scholars. There is no push for similar penalties against Russians, despite Russia's war crimes in occupied Chechnya.

All this has led Israeli cabinet minister and former Soviet dissident Anatoly Scharansky to declare that "Israel has effectively become the world's Jew," designated for pariah status because of deep-seated prejudice.

But is this anti-Semitism? This is hardly the first time the progressive intelligentsia has applied double standards to human rights abuses. Vile as apartheid was, it's absurd that in the 1980s South Africa was treated as though it were worse than the Soviet Union. Now Israel is the left's right-wing regime du jour, seen as a Western colonial outpost in the Third World oppressing the "wretched of the earth."

Extreme and unfair though denunciations of Israel may often be, labeling them anti-Semitic raises troubling questions. Is this a conservative version of political correctness—the equivalent of crying racism when African regimes are attacked as corrupt or incompetent?

And yet the fact is that critiques of Israel often do morph into more old-fashioned anti-Semitism, partly because of the equation of *Israeli* and *Jew*. Schoenfeld quotes the British writer Petronella Wyatt, who has written that conversation about

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the Middle East in educated British circles often abounds in such comments as, "Well, the Jews have been asking for it, and now, thank God, we can say what we think at last." A columnist for the London *Observer* has publicly declared that he refused to read pro-Israel letters signed with Jewish-sounding names.

There are also many instances of anti-Israel posters and cartoons employing shockingly anti-Semitic language and imagery, including the old "Christ killer" label. A cartoon in the respectable Italian newspaper *La Stampa* showed an infant Jesus lying in front of an Israeli tank, the caption saying, "Don't tell me they want to kill me again."

Far more common is the ploy of equating the Israelis with the Nazis: posters depicting Israeli Prime Minister Ariel Sharon with a swastika armband, comments about "the Zionist S.S.," comparisons of Israel's treatment of the Palestinians to the Holocaust. Calling Sharon a hard-liner or a warmonger is hardly anti-Semitic, contrary to what Schoenfeld seems to imply—but comparing the head of the Jewish state to Hitler, who sought to exterminate the Jews, is beyond obscenity.

As Schoenfeld points out, it is a mistake to think that "real" anti-Semitism has to involve a naked hostility to Jews simply for being Jews, whether based on religion or ethnicity. In the 19th and 20th centuries, anti-Semitism was often associated both with anti-capitalism (since the Jews were seen as the epitome of the money-grubbing bourgeoisie) and with anti-communism (since the Jews were seen as the vanguard of Bolsheviks and other radicals).

Today, all too often, extremist anti-Israeli rhetoric becomes a vehicle for the kind of bigotry that one might have hoped was extinct in the civilized world. Critics of Israeli policies have a special responsibility to condemn it.

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Rant: Tim Cavanaugh

Political Body Snatchers

How can you tell the evil party from the stupid party?

As Americans innocently continue reporting to polling places to split the difference between the nation's two political parties, the parties themselves are enacting another remake of Disney's Cartesian teen comedy *Freaky Friday*. The bodies of Republicans and Democrats, repellent husks even under the best circumstances, now host the minds, spirits, and vices of their putative opposite numbers. The evil party and the stupid party have switched roles.

Even if you never put much stock in the parties' self-definitions, the spectacle of fiscally hawkish Democrats railing against free-spending Republicans is jarring. The GOP, with control of two out of the three federal branches, has grabbed for itself the choicer role (the mom, to continue the uncanny *Freaky Friday* parallel).

Barred from the purse strings that they're sure they must still control back in the regular world, the Democrats are left to enact angst-filled adolescent tantrums. A recent report from Brian M. Riedl at the ordinarily pro-GOP Heritage Foundation explains how the special effects were done:

In two years of Republican stewardship, federal spending has increased by $296 billion. Of that figure only 45 percent has been related to war and counterterrorism. The remaining 55 percent has been taken up with such traditional GOP faves as unemployment (spending up 85 percent since 2001), education (up 65 percent), and general government costs (up 63 percent, largely thanks to federal bailouts of state governments). Critics are still debating how an $11 billion expansion of the No Child Left Behind program, tariffs to protect domestic steel and textile industries, or corn and cotton subsidies carry on the legacy of Ronald Reagan, or even Wendell Willkie, but audiences are delighted.

Well, some audiences anyway. Bereft of a good issue, the Democrats can only snipe at such largess. The dozen or so Democratic presidential hopefuls make fast work of President Bush's fiscal "irresponsibility." (Fiscal conservatism occurs naturally when you're running against tax cuts and a recovering economy.)

Sometimes more extreme measures are called for. When the Republican Senate, led by man of science Bill Frist (R-Tenn.), moved to beggar future generations with a potentially ruinous expansion of Medicare's prescription drug benefit, it was left to Sen. Edward Kennedy (D-Mass.) to drag his crapulous girth onto the Senate floor for an unsuccessful filibuster. For the sake of form, Kennedy complained that the Medicare plan was *too* conservative, but the sight of Kennedy fighting the kind of benefit he'd devoted his entire career to creating left Americans in stitches.

Politics may not end at the water's edge, but they do seem to get flipped around. In foreign policy, we'd ordinarily expect to find GOP hawks standing up for America's interests, while dithering Democrats lay waste their talents with Wilsonian skylarking. But circumstances have changed. As traditionally conservative arguments for the invasion of Iraq—threats to national security, prevention of mega-terrorism, protection against expansionist rogues, etc.—dry up, the war's Republican defenders increasingly fall back on the very gushiest of neoliberal wishes about helping unfortunate foreigners get a hand up (and a handout).

In turn, the Democrats, who less than three years ago were willing to follow Al Gore's crusade in support of America's "moral interests" to the ends of the earth, are left griping that the toppling of the age's bloodiest dictator was insufficiently Wilsonian. Or too Wilsonian. Or something like that.

Perhaps we're comparing this situation to the wrong movie. Maybe the real culprits are body snatchers who have flooded the capital with Republican and Democrat pods. Or maybe *Face/Off* is the real analog. One way or another, we'll get to the bottom of this postmodern switcheroo.

As of this writing, the anthrax killer remains at large, but I'm confident Capitol Hill police will eventually discover the illegal caches of Flubber from which such gravity-defying political platforms have been crafted. ▮

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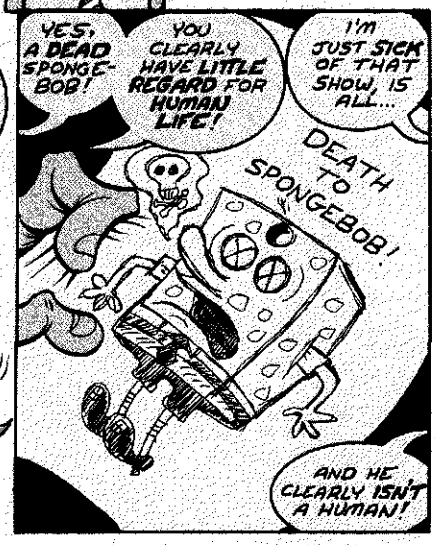
PRINCIPAL STALIN

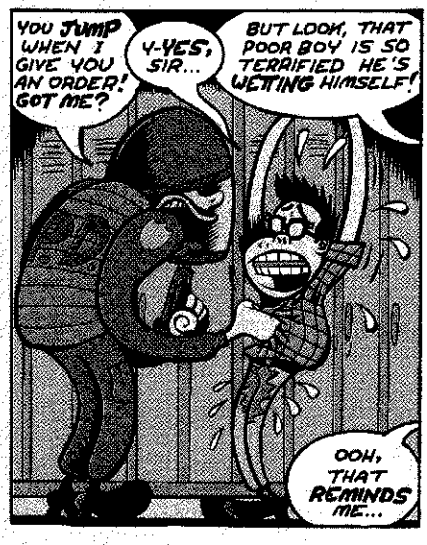
PETERBAGGE@EARTHLINK.NET

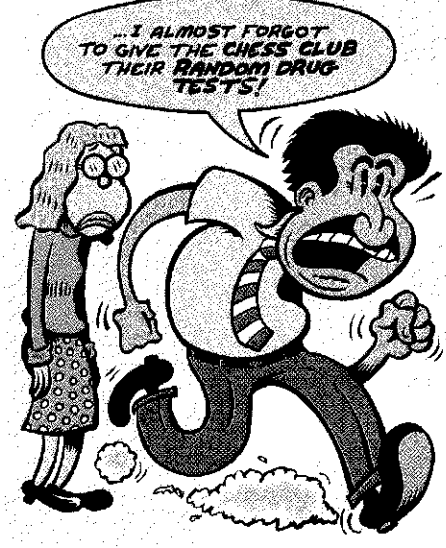

YES, A DEAD SPONGEBOB!
YOU CLEARLY HAVE LITTLE REGARD FOR HUMAN LIFE!
I'M JUST SICK OF THAT SHOW, IS ALL...
DEATH TO SPONGEBOB!
AND HE CLEARLY ISN'T A HUMAN!

SPARE ME THE SEMANTICS YOUNG LADY! YOU ARE HEREBY EXPELLED FROM THIS SCHOOL!
BUT SHE'S ONE OF OUR BRIGHTEST PUPILS...
PRECISELY! IT'S THE SMART ONES YOU'VE GOT TO WATCH OUT FOR!

THE SURVEILLANCE MONITOR IN THE GIRLS' LOCKER ROOM CLEARLY SHOWED ONE STUDENT PASSING A JOINT TO ANOTHER!
A JOINT? ARE YOU SURE IT WASN'T A TAMPON?
I'VE REVIEWED THAT TAPE MANY TIMES, AND I'M POSITIVE!

STILL, I THINK YOU MAY HAVE GONE TOO FAR THIS TIME...
NONSENSE! I REFUSE TO COMPROMISE WHEN IT COMES TO PROTECTING THE CHILDREN!


YOU JUMP WHEN I GIVE YOU AN ORDER! GOT ME?
Y-YES, SIR...
BUT LOOK, THAT POOR BOY IS SO TERRIFIED HE'S WETTING HIMSELF!
OOH, THAT REMINDS ME...



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"Dominate. Intimidate. Control."

The sorry record of the Transportation Security Administration

James Bovard

When 9/11 exposed the holes in American airport and airline security, the Bush administration and Congress responded with the usual Washington panacea: a new federal agency. Congress quickly deluged the new Transportation Security Administration (TSA) with billions of dollars to hire an army of over 50,000 federal agents to screen airport passengers and baggage.

But before the agency was even a year old, it was clear that it had "become a monster," to quote the chairman of the House Aviation Subcommittee, John Mica (R–Fla.). Arrogant, abusive, incompetent, and expensive, the TSA is, in the words of the House Appropriations Committee, "seemingly unable to make crisp decisions...unable to work cooperatively with the nation's airports; and unable to take advantage of the multitude of security-improving and labor-saving technologies available."

Airport security, © Steve Liss/ CORBIS

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The attacks of September 11, 2001, changed many things, but they did not make the government more competent or effective, and they did not make it more willing to respect the dignity or liberty of its citizens.

The attacks of September 11, 2001, changed many things, but they did not make the federal government more competent or effective, and they did not make it more willing to respect the dignity or liberty of its citizens. For proof, one need only examine the TSA's sorry record.

Jumpy Screeners

In June 2002 news leaked out that TSA airport screeners missed 24 percent of the weapons and imitation bombs planted in the government's undercover security tests. At some major airports, screeners failed to detect potentially dangerous objects in half the tests. The results were worse than they first appeared, because the testers were ordered *not* to "artfully conceal" the deadly contraband and instead pack their luggage "consistent with how a typical passenger in air transportation might pack a bag." Although the tests seemed designed to see if screeners could catch terrorists with single-digit IQs, they still failed to find the weapons much of the time.

That does not mean TSA screeners don't find anything. Notable triumphs have included seizing a tiny pair of wire cutters from a Special Forces veteran who had been shot in the jaw in Afghanistan and needed the cutters to snip his jaw open if he started to choke; evacuating terminals in Los Angeles upon discovering that travelers were carrying such dangerous devices as a belt buckle or a tub of jam; and shutting down several concourses in St. Louis after a federal security screener spotted what appeared to be a "cutting tool" in a carry-on bag. After detecting the suspicious object, the St. Louis screener followed proper procedure: He fetched his supervisor to take a look at the frozen image on the video screen at the checkpoint. A few minutes later, the supervisor concluded that the bag was indeed suspicious and needed to be manually searched. But the passenger had long since retrieved it and headed to his or her flight. Hundreds of passengers were evacuated and up to 60 flights were delayed; despite many searches, the suspicious item was never found.

On January 15, 2003, the Tampa airport was evacuated after screeners discovered an abandoned briefcase that appeared to be packed with bombs. The ticketing level of the terminal was cleared, the roads outside were closed, and the bomb squad arrived. An hour later, it was determined that the briefcase was a TSA dummy designed to test airport security. "We use these bags repeatedly, so the fact that the bag was in that area was not surprising," TSA Security Director Dario Compain told the *St. Petersburg Times*. "That it was unattended, that there was no one with it who knew its true nature and could stop the escalation of our action before it reached the evacuation stage, is what's troubling."

The TSA detains more than just packages. More than 1,000 people have been arrested at airport checkpoints since the feds took over security in February 2002. A regulation passed that month made it a federal crime to interfere with airport screening personnel. A single word can be sufficient to trigger an arrest.

Betsylew Miale-Gix, a 43-year-old personal injury lawyer and former world boomerang record holder, was stopped at a security checkpoint at Hartford's Bradley International Airport on June 30, 2002, and informed that she could not carry her boomerangs onto the plane. The boomerangs weighed less than three ounces each and were fragile—the type of item that is routinely crushed if sent

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as checked luggage. Miale-Gix had flown many times after 9/11 and had never encountered any objections to her boomerangs. They wouldn't be much use as weapons, after all; as one of her fellow boomerang enthusiasts commented, throwing a competitive boomerang at someone is "like throwing a first-class letter."

The state trooper who banned the boomerangs from the flight refused to listen to Miale-Gix's explanation, and she swore at him as she was departing the screening area. She was quickly arrested, handcuffed, charged with breach of the peace, and compelled to pay $500 for bail. TSA spokeswoman Deirdre O'Sullivan told *The New York Times* that although boomerangs are not on the official list of prohibited carry-on items, "the screeners have the discretion to decide whether or not that item could be used as a weapon."

Travelers who assert their legal rights can find themselves bounced. Della Maricich was banned from a Portland-to-Seattle flight on May 1, 2002, after she asked an airport screener to keep her purse where she could see it while he searched it. (Many airport screeners have been accused of theft since the new search procedures were introduced.) The screener refused, and Maricich demanded to speak to his supervisor. A National Guardsman arrived on the scene a few minutes later and, Maricich later told *The Wall Street Journal*, "He told me that because I had disrupted the line by calling for a supervisor, I would not be allowed to fly out of PDX that day. He told me that I was a troublemaker and I was the only one who had ever complained."

On August 2, 2002, a screener at Hartford's Bradley International Airport poked through the wallet of Fred Hubbell, an 80-year-old World War II combat veteran who had already undergone two full searches in that airport that morning. "What do you expect to find in there, a rifle?" the exasperated Hubbell asked. He was then arrested for "causing a public disturbance" and fined $78. Dana Cosgrove, the TSA airport security chief, later justified the arrest on the grounds that "all that the people around him in the waiting room heard was the word *rifle*."

The TSA flaunts its power to bar people from flights. A group of 20 high school students and Catholic priests and nuns, members of Peace Action Milwaukee, were detained at Milwaukee's airport on April 19, 2002, after some of their names turned up on a "No Fly Watch List" issued by the federal government. According to one member of the group, a sheriff's deputy told her, "You're probably being stopped because you are a peace group and you're protesting against your country." Many of the travelers missed their flights and had to fly the following day. Yet Sgt. Chuck Coughlin of the Milwaukee sheriff's department insisted, "Although it was time-consuming, and although they were flight-delayed, the system actually worked."

The TSA's no-fly lists are often poor sources of information. Many travelers are repeatedly stopped erroneously and taken aside for intensive questioning, regardless of how many times they have previously proved that they are not a threat to national security. As David Sobel, general counsel of the Electronic Privacy Information Center, told the *Financial Times*, "Nobody wants to accept responsibility for the maintenance of the [no-fly] list, and nobody wants to claim the authority to remove a name." Now the TSA, at Congress's behest, is creating the Computer Assisted Passenger Prescreening System (CAPPS II), which will assign a "threat level" to every person who flies within the United States. The TSA has provided almost no information on how the system will operate, although the government has indicated that it could sweep up a vast amount of personal information on each traveler—including credit history, financial and transaction records, Internet usage, and legal records (including speeding and parking tickets).

In January 2003 the TSA revealed a new regulation allowing it to suspend pilot licenses based on unproven suspicions that the pilot might pose a security risk. Those who lose their livelihoods as a result of such edicts will not necessarily be permitted to see the evidence against them. The TSA did not seek comments from the public before announcing its new rule, which fails even to define "security risk." Phil Boyer, president of the Aircraft Owners and Pilots Association, protested that the TSA was being "the cop, prosecutor, judge, jury and appeals court....Clearly, this is a violation of basic constitutional rights." But agency spokesman Brian Turmail dismissed the concerns: "The bottom line is: If you're not a terrorist, you don't need to worry about this."

Crazy Cops

The TSA has proven inept in the air as well as on the ground. It was determined to expand

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the number of air marshals quickly from a few hundred to more than 6,000. When most of the applicants failed the marksmanship test, the agency solved that problem by dropping the marksmanship test for new applicants. (The ability to shoot accurately in a plane cabin is widely considered a crucial part of a marshal's job.) Some would-be marshals were hired even after they repeatedly shot flight attendants in mock hijack response exercises.

USA Today's Blake Morrison noted a report that "one marshal was suspended after he left his gun in a lavatory aboard a United Airlines flight from Washington to Las Vegas in December. A passenger discovered the weapon." Another air marshal left his pistol on a Northwest flight from Detroit to Indianapolis; a cleaning crew discovered the weapon. Morrison noted: "At least 250 federal air marshals have left the top-secret program, and documents obtained by *USA Today* suggest officials are struggling to handle what two managers call a flood of resignations."

The Transportation Department responded to the *USA Today* exposé by sending Secretary Norman Mineta to an air marshal training facility, where he witnessed a training exercise in which marshals shot a would-be hijacker. Afterward Mineta commented, "I not only saw a remarkable demonstration of skill and marksmanship, but a degree of professionalism we are instilling throughout our aviation security system."

Eight days later, on August 31, 2002, Delta Flight 442 was proceeding from Atlanta to Philadelphia with 183 people on board when a disheveled passenger began rummaging in the overhead bin. *The Philadelphia Inquirer* reported that the trouble began when the man "made inappropriate comments to a female passenger a few rows behind him." Two plainclothes air marshals jumped up and tackled the guy, shoving him first to the back of the plane and then dragging him to the first class area.

Then the trip got interesting. One of the marshals returned to the front of the coach section, drew his Glock semiautomatic pistol, and started screaming and pointing his gun at passengers. Philadelphia Judge James Lineberger, a passenger on the flight, later told the Associated Press, "I assumed at that moment that there was going to be some sort of gun battle....There were individuals looking to see what they were pointing at, and [the air marshals] were yelling, 'Get down, get out—get your head out of the aisle.'" In a formal complaint to the TSA, Lineberger declared that "there was no apparent reason for holding all the passengers of the plane at gunpoint, and no explanation was given."

Lineberger was sitting diagonally across from the initial target of the marshals, yet did not notice any problem on the flight until the marshals went ballistic. Susan Johnson, a social worker from Mobile, Alabama, was also unaware of any disturbance until the air marshals seized the man. "It never made sense," she told the *Inquirer*. "This guy was not any physical threat that we could see. Maybe he said some things to them that made them concerned. He just appeared to us unstable, emotionally." According to Becky Johnson, a reporter who wrote a column about the episode for her Waynesville, North Carolina, newspaper, "They never, ever said who they were, that they were air marshals or whoever."

After the flight landed, the marshals nailed another terrorist suspect: a physician and retired U.S. Army major named Robert Rajcoomar. He was handcuffed and taken into custody because, as TSA spokesman David Steigman later explained it, he "had been observing too closely." Rajcoomar had been sitting in first class quietly reading and drinking a beer until the marshals dumped the allegedly unruly passenger from coach class into the adjacent seat. Rajcoomar told the *Inquirer*: "One [marshal] sat on the guy....he was groaning, and the more he groaned, the more they twisted the handcuffs." Rajcoomar asked the stewardess for permission to move to another seat in first class; she told him to take one of the seats the marshals had vacated.

When the plane landed, Rajcoomar recalled, "One of these marshals came down to me and said, 'Head down, hands over your head!' They pushed my head down, told me to bend down." Rajcoomar said one of the marshals told him, "We didn't like the way you looked" and "We didn't like the way you looked at us." He was locked up in a filthy cell for three hours before being released without charges. His wife was left to roam the Philadelphia airport, not knowing what had happened to her husband.

And the person who initially set off the marshals? He was questioned after the plane landed, but a U.S. attorney decided not to file charges.

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The TSA was determined to expand the number of air marshals quickly from a few hundred to more than 6,000. When most of the applicants failed the marksmanship test, the agency solved that problem by dropping the test.

The air marshal who brandished his weapon had twice applied to be a cop in Philadelphia but failed the police department's psychological tests. He had also been rejected in an attempt to become a prison guard. When he threatened scores of coach passengers, he had received only two weeks of training.

What escalates this episode beyond a mere bizarre anecdote is the fact that the TSA hailed these marshals as models. Several days after the incident, Thomas Quinn, the national director of the air marshal program, asserted, "The federal air marshals did a very good job. They did exactly as they're trained to do." And TSA spokesman Robert Johnson, speaking to the Associated Press, blamed the passengers for being held at gunpoint: "If people would have stayed in their seats and heeded those warnings, that would not have happened. It's our opinion that it was done by the book."

Not Just Birth Pangs

Dallas–Fort Worth International Airport is home to 1,800 TSA screeners. At 1:50 p.m. on January 9, 2003, one of them swabbed the outside of a passenger's laptop bag to check for explosives. The screener returned the bag to the passenger, who proceeded to his plane. Three minutes later, the screener noticed that the explosive trace detection machine indicated a positive alert for Semtex, a plastic explosive, from the laptop. The screeners then spent three more minutes checking the machine to confirm the accuracy of the positive alert before they informed a TSA supervisor of the problem. The supervisor and screeners then left the checkpoint to walk around and see if they could find the man suspected of having plastic explosives in his laptop. (The explosive detection test is notorious for false positives.)

The group searched four airport departure gates and, after they could not find the man, returned to the checkpoint to retest the machine. More than half an hour after the positive alert for plastic explosives occurred, the TSA notified an airport policeman standing 15 feet from the checkpoint of the problem. Orders were quickly given to empty the terminal. Almost an hour after the laptop owner passed through the checkpoint, his description was circulated through the airport.

Three terminals at the nation's third-largest airport were closed for almost two hours. Thousands of people were evacuated from the airport and at least 200 flights delayed. Hundreds of passengers already on planes waiting for takeoff were obliged to deplane. Forty other airports were affected.

Because the Dallas–Fort Worth airport was not blown up that afternoon, the TSA declared victory. Agency spokesman Ed Martelle told the *Fort Worth Star-Telegram*: "We caught him, but we lost him. But what he couldn't do was harm anyone. The system worked." The TSA refused to name either the manufacturer of the machine that gave the alert or the screener; as spokesman Brian Doyle explained, "There are privacy issues involved here." After prying into tens of millions of Americans' bags, the agency suddenly developed respect for privacy—for itself and its corporate suppliers.

Although the TSA promised to issue a full report on the incident, it reneged, announcing a few weeks later that national security concerns prevented it from releasing any more details of the debacle. The TSA also declared that "details about future breaches also would be kept secret because of national security," *The Dallas Morn-*

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The federal mentality toward air travelers is best summarized by the motto posted at a TSA training center: "Dominate. Intimidate. Control." But it takes more than browbeating average Americans to make air travel safe.

ing News reported. The *Fort Worth Star-Telegram* added: "Too much information was made public about the breach, local TSA officials have been told. Further disclosures by airport officials or anyone else privy to the final report could result in fines and/or jail time."

While some people may retain hope that the preceding fiascoes are merely birth pangs, contrary evidence continues to cascade in:

• On February 6, 2003, according to *Airport Security Report*, San Francisco International Airport was disrupted after a Taiwanese woman with two carry-on bags "sprinted through an unmanned security checkpoint at 10:46 a.m. It wasn't until 1 p.m. that TSA officials evacuated the terminal." TSA agents looked for the woman, concluded she was "lost in the crowd," and then spent time reviewing the videotape of the security checkpoint before ordering an evacuation and rescreening.

• On March 8, 2003, a terminal at the Hartford, Connecticut, airport was evacuated after a screener was caught taking a late afternoon nap by an X-ray machine.

• On March 11, 2003, according to *Airport Security Report*, TSA officials shut down the Birmingham, Alabama, international airport after "four people were discovered lurking on the airport tarmac. They fled on foot when officers questioned them about their badges identifying them as airport security workers." Dozens of flights were delayed and hundreds of people were evacuated before it was learned that the four suspicious individuals were TSA officials testing airport security.

• On March 21, 2003, Cleveland Hopkins International Airport was placed under a 40-minute lockdown, prohibiting all passenger entries or exits and all plane departures. TSA agents hit the alarm when they spotted a little toy gun on a child's belt buckle in a carry-on bag. The TSA confiscated the child's belt buckle. Spokesman Rick DeChant announced, "Had Mom or Dad helped this kid pack, this [airport lockdown] could have been avoided."

• On April 3, 2003, a passenger at Baltimore-Washington International airport refused to be rescreened after the metal detector signaled an alarm from her first pass. Instead, she walked on to her flight. Although two concourses were closed for an hour, the woman was never apprehended.

• In May 2003 Americans learned that the TSA had fired scores of screeners who had been on the job for several months in Los Angeles and New York after finding that they had criminal records. The *Los Angeles Times* reported that the agency "lost background questionnaires, failed to run some employee fingerprints through a national crime database and was unable to complete background checks." The *Times* noted that congressmen began investigating the TSA's "background check process after reports that a screener at Kennedy airport was arrested earlier this year for allegedly stealing $6,000 from a passenger." At Dulles International Airport in Washington, D.C., the agency failed to complete background checks on more than a third of the 600 screeners. One employee complained: "It defeats the purpose of what you are here for. It's a 200-plus [person] security breach." Nationwide, more than 20,000 TSA screeners were on the job even though the government had not completed background checks on them.

One reason for the federal takeover of airport security, you may recall, is that private companies had hired screeners of dubious character and poor trustworthiness.

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On March 10, 2003, a TSA press release proudly announced, "The Transportation Security Administration has intercepted more than 4.8 million prohibited items at passenger security checkpoints in its first year, contributing to the security of the traveling public and the nation's 429 commercial airports." Agency chief James Loy bragged that "those statistics are strong testimony to the professionalism and attention to detail of our highly trained security screeners." A few weeks later, he upped the ante, informing the House Appropriations Committee: "We have identified, intercepted, and therefore kept off aircraft more than 4.8 million *dangerous* items."

And so all the fingernail clippers and cigar cutters seized since 9/11 transmogrified into proof that the federal government is protecting people better than ever. The press release did not mention that the checkpoint seizures included frying pans, dumbbell sets, horseshoes, toy robots, and an unknown but huge number of small pointy objects.

Security as Theater

Here's a more sobering measure of the agency's effectiveness: The New York *Daily News* celebrated the first anniversary of 9/11 by sending two reporters around the country, taking 14 flights on six airlines, and passing through 11 major airports during Labor Day weekend 2002. The reporters carried box cutters, razors, knives, and pepper spray in their luggage. They took their contraband through the checkpoints at all four of the airports used by the hijackers on 9/11. "Not a single airport security checkpoint spotted or confiscated any of the dangerous items, all of which have been banned from airports and planes by federal authorities," the paper revealed. The reporters were selected for hand searches several times, but even then nothing was found. There were more security personnel and searches than a year before, "but it amounted to nothing more than a big show."

The TSA blamed the failures on its prehistory, commenting that the *Daily News*' findings "underscore the failures of an aviation security system inherited by the federal government last fall." A spokesman for Department of Transportation Secretary Mineta, Leonard Alcivar, greeted the findings with a spurt of positive thinking: "The reality is Americans have never had a higher level of security in the history of aviation."

There was less room for positive thinking a year later, when college student Nathaniel Heatwole pulled a similar stunt, planting box cutters and fake bombs on six different planes to probe the gaps in security. In September 2003 he sent the TSA an e-mail message explaining what he had done, in the hope of sparking improvements in the system. Instead he was brought up on charges and now faces up to 10 years in jail.

There is no series of tricks or reforms that will guarantee safe air travel. But a first step toward better security is to recognize the facades the feds have created. The TSA should no longer be permitted to burden travelers or taxpayers. The armies of federal agents occupying American airports should be disbanded. In the meantime, airports and airlines must not be shielded from liability if their negligence results in carnage. The specter of devastating liability lawsuits could produce more innovations and sounder security policies than the incentives produced by Washington political circuses.

Federal intelligence agencies should do a better job of notifying airports and airlines of specific current threats. Resources should be focused on determining actual threats, rather than treating every grandmother and toddler as a potential hijacker. And it would be helpful to amend U.S. foreign policy to reduce the number of foreigners willing to kill themselves to slaughter Americans.

In the wake of 9/11, the federal mentality toward air travelers is best summarized by the motto posted at the headquarters of the TSA air marshal training center: "Dominate. Intimidate. Control." But it takes more than browbeating average Americans to make air travel safe.

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In Defense of Derivatives

Between Enron, WorldCom, and Global Crossing, the controversial financial instruments have gotten a bad rap. Here's the truth.

Gene Callahan and Greg Kaza

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Three of the six largest bankruptcies in American history—WorldCom, Enron, and Global Crossing—occurred between December 2001 and July 2002, shattering investor confidence and helping to knock 22 percent off the Dow Jones Industrial Average. The failures had more in common than just timing and size. All to varying extents involved the use of the controversial and poorly understood financial instruments known as derivatives.

In the season of finger pointing that followed, derivatives trading was singled out for abuse. "If you don't get enough from any financial scandal," BBC business reporter Evelyn Clark declared in February 2002, "you're really [illegible] derivatives trading to rake the blame." [illegible] chairman of the U.K. Financial Services Authority [illegible] derivatives the month before that on investors is [illegible] described as [illegible] "the nuclear [illegible] financial markets today." Even [illegible] Buffett warned that derivatives posed a [illegible] global financial system. "We view them as time bombs, both for the parties that deal in them and the economic system," Buffett wrote in his 2002 annual report for Berkshire Hathaway. "Derivatives are financial weapons of mass destruction, carrying dangers that, while now latent, are potentially lethal."

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What are these Wall Street WMDs, and what should be done about them? Technically, derivatives are financial products whose value is "derived" from that of an "underlying" asset. For example, stock options, perhaps the best-known derivatives, are based on the underlying value of the stock that the option enables the purchaser to buy at a later date. Futures contracts—used extensively by farmers to protect themselves from poor crop yields and fluctuating prices—are derived from the root value of the good to be bought or sold in the future.

Derivative products are not just a sophisticated way for investors to gamble. They also give producers a crucial tool for hedging against risk and uncertainty. And they have played a central role in the flowering of innovation that the financial markets have enjoyed during the last two decades. There are derivatives betting on the likelihood of a natural catastrophe; consumer credit card debt has been converted into bonds; futures markets have been established for such things as barge rates; and options allow investors to speculate on the temperature, wind chill, and amount of rainfall in many cities.

The common denominator in all these products is that they allow companies and private investors to trade away risk with which they are ill equipped to deal and focus instead on taking risks in areas in which they specialize. Many international corporations, for example, use currency derivatives to swap out their exposure to exchange rate fluctuations. This allows them to focus on their core business while allowing professional currency traders to worry about international valuations.

This wave of financial innovation has washed into unlikely places. Glam rock pioneer David Bowie, long famous for his innovative music and embrace of the new, became the first songwriter in history to use derivatives to securitize future royalties from his own song catalog when he created "Bowie Bonds" in 1997. Bowie and his business manager, the Rascoff/Zysblat Organization, sold the royalty rights to his 25 pre-1990 albums to the Prudential Insurance Company. The singer/songwriter was able to pocket $55 million immediately, while Prudential received a 7.9 percent return on bonds that were backed by Bowie's future royalty payments. Bowie's groundbreaking move was quickly emulated by James Brown, the Isley Brothers, Ashford and Simpson, Joan Jett, and other artists, as well as the estate of Marvin Gaye. Bowie Bonds even inspired a thriller novel, *Something Wild* (2002), by Linda Davies.

But all has not been hunky dory for derivatives. Besides the massive bankruptcies, critics point to a number of other derivatives-related mishaps. In 1995 Nick Leeson used derivatives to establish positions for his employer, the British bank Barings, with exposure of more than $60 billion, compared to the bank's capital of $615 million. When the positions turned against Barings, the 233-year-old institution was forced to fold. The Long-Term Capital Management (LTCM) hedge fund and the government of Orange County, California, were also involved in derivatives-related meltdowns in the 1990s.

The Men Who Sold the World

Although sometimes viewed as a recent innovation, derivatives actually predate Christ. Thomas F. Siems, a senior economist at the Federal Reserve Bank of Dallas, claims that the Greek philosopher Thales created the first known derivative contract roughly 2,500 years ago. Thales, apparently an excellent prognosticator, suspected that the olive harvest would be exceptionally good one year, so he bought options securing him the exclusive use of olive presses in his area. When the harvest turned out to be much as Thales had expected, he made a tidy profit renting out his monopolized presses for high fees.

A regular market for such sophisticated financial instruments existed in Europe as early as the 1600s, when short sales, options, and forward contracts all were exchanged on the Amsterdam bourse. The Dutch government was so skeptical of these mysterious goings-on that it passed laws making derivative contracts unenforceable in government courts. Economist Edward Stringham of San Jose State University has demonstrated that despite such official disapproval, the Amsterdam derivatives market worked in an orderly fashion, relying on privately created law and ostracism of those who didn't fulfill their contracts.

Still, derivatives played a relatively minor role in global financial markets until fairly recently. It was not until 1973 that the Chicago Board Options Exchange began trading listed options in the United States. From 1982 to 2000, trading in listed equity options increased roughly tenfold, spurred on in part by the pioneering

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work on options modeling by economists Fischer Black, Robert Merton, and Myron Scholes. As sophisticated mathematical models for valuing derivatives gained currency, computers came to play an increasingly important role in trading them. The fall in the price of computing power consequently enhanced the popularity of derivatives.

While trading in stock options was increasing, both the volume and variety of other types of derivatives were growing explosively. Between 1987 and 2002, the amount of outstanding currency and interest rate swaps and options increased from $865 billion to nearly $100 trillion, according to the International Swaps and Derivatives Association. (Swaps are agreements where two parties agree to exchange some features of two assets without trading the assets themselves. For example, a bank that holds many fixed-rate loans but wishes to obtain more floating-rate cash flows might swap the cash flows on some loans with another bank that holds many floating-rate loans but desires more fixed-rate cash flows. Each bank would continue to hold and service the loans it originated, but each would achieve a more preferable cash flow structure.)

Diamond Dogs

As the above description indicates, derivatives can be tricky to explain. Although they have been around for decades, are widely used, and have many valid commercial applications, they have an undeniable image problem. In the wake of the Enron debacle, *The Washington Post* described derivatives as "complex, risky and largely unregulated financial contracts." The Baltimore *Sun* quoted Michael Greenberger, formerly an official at the Commodity Futures Trading Commission, as declaring: "Derivatives, when used speculatively, amount to nothing more than gambling." Even Linda Davies, author of the Bowie Bonds novel, argues that "derivatives are financial instruments that have no intrinsic value."

The first problem with Davies' complaint is that *no* goods have "intrinsic" value. The value of economic goods arises from the desire human beings have for them; it does not somehow reside in the goods themselves. Perhaps the novelist means that while stocks and bonds, for instance, are *truly* valuable to their owners, the value ascribed to derivatives is somehow less real. But such a complaint will not stand scrutiny.

Consider a simple derivative, such as a stock option. Let's assume you could buy a share of IBM stock today at $100. Alternatively, you could buy an option granting you the right to buy a share of IBM stock at $100 at any time during the next six months. It should be clear that if you are interested in owning IBM you probably would consider such an option valuable. After all, should the share price of IBM plunge in the next half a year, you need not exercise your option, saving you from taking a bath. On the other hand, if IBM rises above $100, you can exercise your option and immediately make a profit.

The essence of derivatives is that they allow investors to separate out various aspects of an asset, and trade those aspects separately, rather than in a bundle. For example, when purchasing a share of common stock outright, the buyer gets both the upside and the downside potential of the stock. But by purchasing a "call" option, the buyer acquires *only* the upside potential.

Or consider David Bowie's sale of his royalty income, which separated the income stream from his song rights from the rights to the songs themselves. While the singer

By employing derivatives, David Bowie can focus on making music, the farmer can concentrate on farming, IBM can specialize in computer manufacturing, and financial market traders can worry about pricing assets and evaluating their risk.

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still controlled the use of his own songs, all of the royalty income from them flowed to those who bought the Bowie Bonds. From Bowie's point of view, his financial future was too dependent on the vagaries of his popularity. By selling some of his royalty income to others, Bowie was able to diversify his investments. (We assume that he did not spend the entire $55 million on a huge shopping spree for his supermodel wife Iman.) He reduced the risk that a major shift in the public's musical taste would leave him a pauper. Meanwhile, investors who had not previously had any stake in the sales of *Ziggy Stardust* could diversify *into* that area and earn a decent interest rate while doing so.

Similarly, a farmer who does not wish to concern herself with the dynamics of the wheat market can sell her crop "forward" (i.e., sell it at a specified future date for a price determined today). She can gain even more flexibility by purchasing a "put" option on the wheat—buying the right, but not the obligation, to sell her crop at a certain price (the option's "strike price") over a specified period of time. If the spot wheat price falls below the strike, she can exercise her option and protect herself from losses. If the price rises above the strike, she can let the option expire and sell her crop at the higher price. Naturally, such flexibility has value to the farmer, and she must pay a price to others to persuade them to take on some of her risk.

"It is widely recognized that OTC ["over-the-counter," i.e., not traded on an exchange] derivative instruments are important financial management tools that, in many respects, reflect the unique strength and innovation of American capital markets," said Arthur Levitt, then chairman of the Security and Exchange Commission, in 1998 testimony to Congress. "OTC derivative instruments provide significant benefits to corporations, financial institutions, and institutional investors by allowing them to manage risks associated with their business activities or their financial assets. These instruments, for example, can be used by corporations and local governments to lower funding costs, or by multinational corporations to reduce exposure to fluctuating exchange rates."

How important are derivatives to multinationals? Consider this passage from IBM's 2002 annual report: "The company operates in approximately 35 functional currencies and is a significant lender and borrower in the global markets. In the normal course of business, the company is exposed to the impact of interest rate changes and foreign currency fluctuations, and to a lesser extent equity price changes. The company limits these risks by following established risk management policies and procedures including the use of derivatives and, where cost-effective, financing with debt in the currencies in which assets are denominated."

For the economy as a whole, the benefit of such activities is a simple extension of Adam Smith's 227-year-old insight that the division of labor increases overall productivity. By employing derivatives, David Bowie can focus on making music, the farmer can concentrate on farming, IBM can specialize in computer manufacturing, and financial market traders can worry about pricing assets and evaluating their risk.

Scary Monsters

Still, derivatives are newfangled enough that traders, CFOs, accountants, and investors remain on the learning curve for properly using and analyzing these instruments. We can expect these specialists to make miscalculations, occasionally serious ones. The media and general public,

State agencies should certainly pay more attention to *their own* derivatives trading. But there are a number of pitfalls in increasing the regulation of private derivatives trading.

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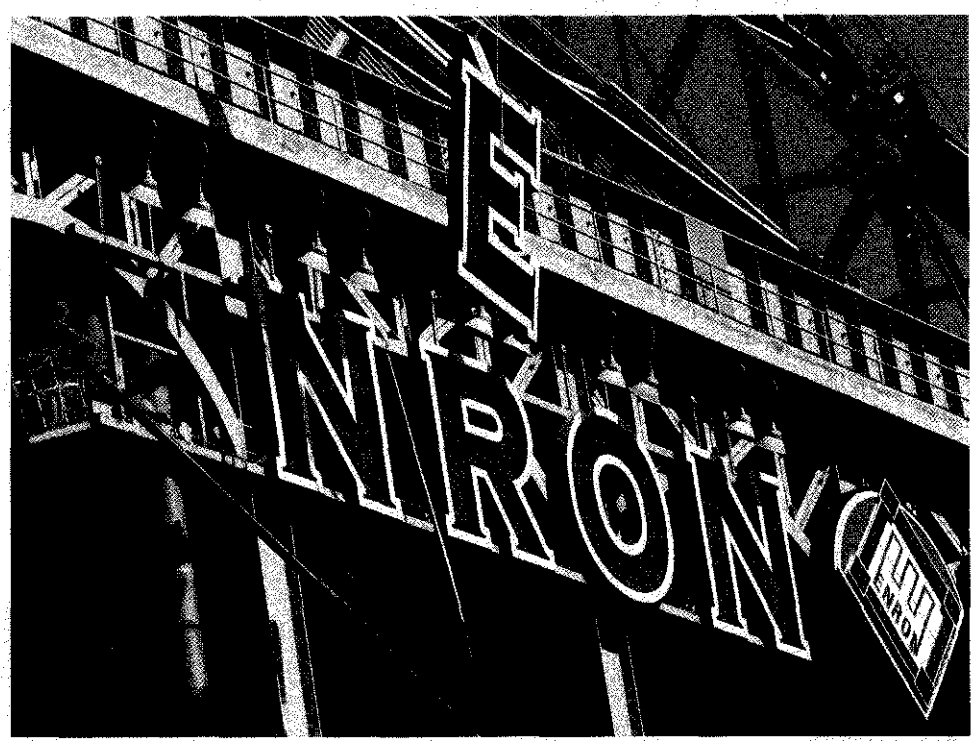
meanwhile, are a few steps further behind in understanding.

Take Enron. Derivatives did play a role in what was the second-largest bankruptcy in U.S. history (behind only WorldCom), but not in the way most people think. The Houston energy company did not go bankrupt because it lost money in derivatives trading. In fact, Enron was tremendously *successful* in its trading operations, racking up billions of dollars in profits. As documented by economic historian Frank Partnoy, the company went under not because it was losing money but because it tried to use these profits to disguise heavy losses in its consulting and technology businesses. When the accounting shenanigans were exposed, the company's credibility evaporated, as did its sources of credit and cash. The company was killed by a lack of cash flow, not a lack of profits.



Removing Enron Field signs outside the formerly named Houston ballpark, AP Photo/Brett Coomer

But there are other troubling aspects of derivatives. For one thing, they may be used in what is called "regulatory arbitrage." Partnoy notes, in his financial history *Infectious Greed* (2003), that "bank regulators, by tightening their focus on banks to reduce their risks and prevent a banking crisis...pushed credit risks onto other, less regulated institutions." In other words, while it may have made sense in other ways for banks to retain more of their own credit risks, the regulatory environment prompted them to trade that risk away. Similar types of regulatory arbitrage have motivated other economic actors, such as insurance companies, to enter into derivative contracts that otherwise would have been unattractive to them.

It's clear that the legal system has a role to play in preventing financial scams. It is also clear that if a particular regulation *is* desirable, the use of derivatives to dodge it is not. If the regulation is *not* desirable, it is simply generating transactions that serve no purpose other than evasion, thus creating superfluous costs and transferring risk from specialists (such as banks and insurance companies) to the less experienced.

Another problematic aspect of derivatives is their often unmonitored use by government agencies. While there has been increased legal and social pressure on private corporations to be transparent in their use of derivatives, politicians have shown little interest in similar standards for government derivatives trading.

Some of the biggest users of derivatives are government-sponsored enterprises (GSEs) such as the mortgage-lending institutions Fannie Mae, Ginnie Mae, and Freddie Mac. Doug Noland of PrudentBear.com, a site that advises investors from a bearish perspective, notes, "We have Fannie Mae, Freddie Mac, and the Federal Home Loan Bank system with total holdings [of derivatives] approaching $2.2 trillion and guarantees for another $1.5 trillion of securities."

This year, FM Watch, a coalition of financial service and housing-related organizations dedicated to monitoring GSEs, reported: "One of the GSEs was able to make its RBC [risk-based capital] virtually disappear through use of derivatives and other risk-hedging devices." FM Watch recommends that GSEs' "disclosures should be at least as complete as those provided by other publicly-traded companies and issuers."

The lack of transparency in governmental derivatives trading has resulted in the loss of billions of tax dollars in

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a string of mishaps spanning a decade. The largest municipal bankruptcy in U.S. history ($1.6 billion) occurred in Orange County, California, in December 1994, when the county treasurer used derivatives to bet that interest rates would stay low. A significant portion of the county's funds were invested in interest-rate-sensitive two-to-five-year notes and structured notes issued by GSEs such as Fannie Mae and Freddie Mac, in addition to other derivatives. Through such instruments, the county's $7.6 billion general fund was leveraged to control more than $20 billion in assets.

The Orange County treasurer was managing a pool of money from nearly 200 California municipalities and government bodies, according to congressional testimony. The treasurer's services were in great demand by other governmental units, because he delivered returns nearly 2 percentage points higher than a similar pool run by the state of California. Local officials increased their leverage by issuing bonds to invest in the pool.

But in 1994 the Federal Reserve raised short-term rates, causing the treasurer's strategy to backfire, with disastrous results for Orange County taxpayers. An effective internal controls system would have made clear what the treasurer was up to. The structured notes involved were government securities subject to government regulators, who also missed the treasurer's misuse of leverage.

Arkansas taxpayers also suffered after the state lost an estimated $30 million from derivatives trading despite repeated warnings from auditors. A 1997 independent audit by the private accounting firm Deloitte & Touche LLP made the following observation about the Arkansas Teachers Retirement System (ATRS): "Alternative investments are becoming an increasing segment of the ATRS portfolio and, currently, ATRS does not have procedures in place to obtain or monitor the market values of these instruments and consequently cannot monitor related investment returns." The "alternative investments" described in this prophetic warning included many derivatives. Deloitte & Touche recommended that Arkansas "develop procedures to ensure that market values are periodically determined for their investments and that these market values are supported by verifiable data." A 2000 audit made similar recommendations.

ATRS officials clearly did not understand the derivatives they were trading, and ATRS became the only state pension system in the U.S. to lose money in the offshore limited partnerships at the center of the Enron bankruptcy. As of mid-2001, more than 5 percent of ATRS' investments were considered "alternative," a high proportion.

In 1995 the Wisconsin Investment Board, which oversees the state's investment fund, lost more than $95 million through positions in leveraged derivative instruments linked to Mexican interest rates and currency. When the Mexican peso plummeted in value in 1994, the Investment Board incurred $35 million in losses. That same year, Independence Township in Michigan lost $2 million through its misuse of domestic swaps.

Legislatures in two Midwestern states responded to these government failures. Wisconsin has become one of three states (along with Kansas and Missouri) that restrict derivatives holdings by government units, prohibiting the instruments except when used "for the purpose of reducing risk of price changes or of interest rate or currency exchange rate fluctuations with respect to investments held" by the Investment Board. The state of Michigan, meanwhile, passed a law requiring government derivatives to be reported in audits, subject to the Michigan Freedom of Information Act.

But politicians usually have been far more interested in passing laws that regulate corporate use of derivatives than in examining governmental use. Forty states have legal definitions or other acts regulating the percentage of portfolios that insurance companies and other firms may invest in derivatives, while only Michigan has mandated transparency for government units dealing in them.

Ch-ch-ch-ch-changes

In response to the various derivatives disasters, many have suggested that the government should become more active in regulating these new markets. Sen. Dianne Feinstein (D-Calif.), following the Enron bankruptcy, proposed giving the Commodity Futures Trading Commission regulatory oversight over all derivative transactions. (Her proposal was defeated in roll-call votes in 2001 and 2002.) State agencies should certainly pay more attention to *their own* derivatives trading. But there are a number of pitfalls in increasing the regulation of private derivatives trading.

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For one thing, as pointed out above, many of the current uses of derivatives are ways to dodge *existing* regulations. It seems probable that a new round of regulation will spur the development of new derivatives designed to bypass *its* restrictions. As the Securities and Exchange Commission's Paul Atkins said at a Cato Institute policy forum in March 2003, "every decade sees some sort of financial crisis, followed by new cries for regulators to 'do something.' Yet the new regulations invariably fail to prevent the next crisis."

Partnoy notes that many of Enron's dubious maneuvers involving derivatives were designed to enhance the company's "accounting reality" at the expense of its true economic condition. But the divergence between accounting and economic reality is itself chiefly a product of the regulatory environment in which publicly traded companies exist. The existence of legal "safeguards" to protect the investing public encourages companies to focus on the safeguards at the expense of the actual financial health of the company. That does not excuse the behavior of executives who violated their responsibility to shareholders, but the motivation to do so would not have existed without regulations that create a divergence between economic reality and accounting reality.

Then there is the question of how to clean up after a derivatives meltdown. When, after some gamble has gone horribly wrong, the government intervenes to soften the blow to investors, it creates a moral hazard. Once people expect that someone else will pick up some of the cost of their speculative failures, they are more likely to undertake risky actions than they would if they had to bear the cost themselves. The amateur mountaineers who venture into places they would never go if there were no park rescue services are a case in point—the existence of a free rescue service prompts people to take risks they wouldn't otherwise, necessitating even more rescues.

Government bailouts of failing investments create a similar moral hazard. The stronger the expectation of a government safety net, the less investors will concern themselves with the risks inherent in the investment. When the average private corporation makes a mistake with derivatives, it suffers a loss. After a few mistakes, it either goes out of business or learns its lesson and changes its practices. But large private hedge funds and money-center banks know that they are "too big to fail," at least in the government's eyes. In the event of a financial catastrophe, they expect to be bailed out by government deposit insurance and the Fed. Such bailouts came to be commonplace under Federal Reserve Chairman Alan Greenspan, especially when he was teamed with Treasury Secretary Robert Rubin.

After the October 1987 market crash, after the savings and loan collapse of the early '90s, and during the crises in Mexico, Russia, and East Asia, the U.S. government rode to the rescue of investors. In September 1998, when the large Long-Term Capital Management (LTCM) hedge fund faced a severe financial crunch, the government stepped in again. The Fed cut rates three times, and the New York Federal Reserve brokered a controversial de-leveraging of LTCM's derivative trades, which had gone south when the Asian and Russian financial crises unfolded. Large money-center banks were on the other side of many of these trades. "If Long-Term defaulted...the banks...would be left holding one side of a contract for which the other side no longer existed," Roger Lowenstein explained in his book, *When Genius Failed: The Rise and Fall of Long-Term Capital Management* (2000). "In other words, they would be exposed to tremendous...risks."

The government seemed to be offering a dual assurance that since it was keeping tabs on the markets, everything must be on the up and up; and that should any real disasters occur, it would step in to save the day.

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The Fed's actions sent a clear signal to markets—and the European central banks that had invested in LTCM—that large, politically connected banks with exposure to losing derivatives trades would be protected. There is some evidence that this action contributed to the Enron debacle. For instance, a U.S. district judge in New York ruled that some Enron derivative trades were actually "disguised loans" from a bank previously involved in the LTCM affair.

"In the short run the intervention helped the shareholders and managers of LTCM to get a better deal for themselves than they would otherwise have obtained," economist Kevin Dowd has commented. "It implies a return to the discredited doctrine that the Fed should prevent the failure of large financial firms, which encourages irresponsible risk taking."

As Auburn economist Roger Garrison has put it, the Federal Reserve under Greenspan attempted to build a "firewall" protecting the "real" economy from financial shocks. But firewalls work both ways: To the extent that the rest of the economy is protected from financial shocks, the financial markets are also disconnected from the rest of the economy. With apparent protection against falling asset prices, investing on Wall Street began to look better and better compared to investing on Main Street, where one might lose one's money and *not* be bailed out. Wall Street trader James Canevari told us that the attitude on the street in the late '90s became: "With Easy Al and Trader Bob at the helm, you can take the risk factor out of your models."

It is unsurprising that investors would pay less attention to the exact nature of the risks they undertook as they came to believe they were protected on the downside when making risky, high-yield investments. Unsophisticated investors bought stock in a complex company like Enron, whose business they did not understand. If they tried to learn more from Enron's financial reports, they probably found the documents too abstruse to grasp, partly as a result of the very regulations designed to protect those ordinary investors. The government seemed to be offering a dual assurance—that since it was keeping tabs on the markets, everything must be on the up and up; and that should any real disasters occur, it would step in to save the day.

It is telling that when the Enron scandal finally surfaced, the first reaction of many involved was to look to the government for help. Enron founder Ken Lay "called Treasury Secretary Paul O'Neill, Commerce Secretary Don Evans, Federal Reserve Chairman Alan Greenspan, and Robert McTeer, president of the Dallas Federal Reserve," according to Partnoy. Even Robert Rubin, now back in the private sector, attempted to intervene on Enron's behalf. Given the string of government bailouts in the wake of other financial collapses, it is not surprising that Enron's executives assumed their company would also be rescued.

Sound Vision

Derivatives meet important needs in the global economy. Like all financial instruments, they carry risk, and there can never be a guarantee that such risk will not have adverse consequences on a large scale.

But government regulators are not, generally speaking, in a better position than private investors to evaluate such risks. When regulations prevent or hinder transactions for which there is a genuine demand, they encourage the creation of securities designed simply for the purpose of dodging those regulations, in order to fulfill that demand.

In addition, when the government attempts to encourage the belief that financial markets are "safe" places to invest, it ends up attracting investors who are not prepared to properly evaluate the risks. This creates an interest group that will demand government redress when the investments don't work out. If fulfilled, those demands will encourage a new wave of risky speculation based on the seeming existence of government insurance on the downside. It is as though the government were granting investors free put options!

As in any innovative venture, there are significant risks involved with the fantastic voyage finance has undertaken in the last 20 years. But increased government intervention is likely only to heighten that risk. ▯

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Injustice by Default

How the effort to catch "deadbeat dads" ruins innocent men's lives

Matt Welch

Tony Pierce remembers vividly the exact moment in November 2000 when the state of California began trampling on his life. "There was a loud angry pounding at my door at five o'clock in the morning," he recalls. "Very scary."

It was a female police officer with a complaint accusing him of being the father of an 8-year-old girl in Contra Costa County, east of San Francisco. "I'm like, 'Great! I'm definitely not the father of anybody,'" he says.

There were excellent reasons to think so. He had never met or heard of the mother of the child. He had never lived in Northern California, and at the time of conception (spring 1991) he was attending the University of California at Santa Barbara, beginning a monogamous relationship that would last for two years. What's more, he's a condom fanatic—only once in his life, Pierce swears, has he failed to use a rubber during intercourse, and that was "many years after." (He's been a friend of mine for 15 years, and I believe him.) And if the summons had included the mother's testimony (it was supposed to, but did not), he would have seen himself described as a "tall" and "dark" black man named "Anthony Pierce." Pierce is a hair over five feet, nine inches; he is so light-skinned that even people who know him sometimes don't realize he's black; and no one calls him Anthony except his mom.

The front page of the court document gave simple but misleading instructions: "You have 30 days to respond to this lawsuit. You may respond in one of two ways: 1. File an Answer to the complaint with the Superior Court of Contra Costa County, not with the District Attorney.... 2. Settle the case with the District Attorney. You may call us at (925) 313-4200 to discuss your case." Concluding incorrectly (but understandably) that he could settle the matter over the phone, Pierce called—three times that day—and tried to weave his way through a labyrinthine phone tree. Finally he found a human being, who instructed him to leave a message with a home phone number. The department called him back the next day and left a message; it took another three calls from Pierce before he reached a caseworker for the first time.

"I said, 'What do I need to do? I'm not the father,'" he remembers. "And they were like, 'OK, well this is what you do: You just call in every day, and then we'll understand that

Tony Pierce, photo by Kenny Morrison

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When the government accuses you of fathering a child, no matter how flimsy the evidence, you are one month away from having your life wrecked. Federal law gives a man just 30 days to file a written challenge; if he doesn't, he is presumed guilty.

you're not it, because if you're it, you're not gonna call us every day.'"

Pierce did everything he was told over the next three weeks of phone tag, except for comprehending that the 30-day deadline for denying paternity in writing was etched in federal law, regardless of what he discussed with Contra Costa employees—who he says never once told him the clock was ticking. "All they were doing was delaying me from doing what I needed to do," he says. "It's a huge scam—*huge* scam....They're just counting the days. They're like, 'Sucker, sucker, sucker, sucker.'...And this is the government!"

Two months later, after the phone conversations had ended and he assumed he was off the hook, Pierce received notice that a "default judgment" had been entered against him, and that he owed $9,000 in child support. He was between dot-com jobs, and his next unemployment check was 25 percent smaller; the state of California had seized and diverted $100 toward his first payment. Suddenly, he was facing several years of automatic wage garnishment, and the shame of being forced to explain to prospective employers why the government considered him a deadbeat dad. "That's when it hit me," he says. "I mean, it's mostly my fault—'Fill out the form, dumb-ass!'... But it's so rigged against you, it's ridiculous."

Dad Blamed

What Pierce didn't realize, and what nearly 10 million American men have discovered to their chagrin since the welfare reform legislation of 1996, is that when the government accuses you of fathering a child, no matter how flimsy the evidence, you are one month away from having your life wrecked. Federal law gives a man just 30 days to file a written challenge; if he doesn't, he is presumed guilty. And once that steamroller of justice starts rolling, dozens of statutory lubricants help make it extremely difficult, and prohibitively expensive, to stop—even, in most cases, if there's conclusive DNA proof that the man is not the child's father.

This stacked deck against accused dads has provoked a backlash movement, triggering "paternity fraud" legislation and related legal challenges in more than a dozen states. Combined with advances in genetic technology, this conflict may end up changing the way we define parenthood. For now, the system aimed at catching "deadbeat dads" illustrates how a noble-sounding effort to help children and taxpayers can trample the rights of innocent people.

Here's how it works: When an accused "obligor" fails, for whatever reason, to send his response on time, the court automatically issues a "default judgment" declaring him the legal father. It does not matter if he was on vacation, was confused, or (as often happens) didn't even receive the summons, or if he simply treated the complaint's deadlines with the same lack of urgency people routinely exhibit toward jury duty summonses—he's now the dad. "In California, you don't even have to have proof of service of the summons!" says Rod Wright, a recently retired Democratic state senator from Los Angeles who tried and failed to get several paternity-related reform bills, including a proof-of-service requirement, past former Gov. Gray Davis' veto. "They only are obligated to send it to the last known address."

In fact, a March 2003 Urban Institute study commissioned by the California Department of Child Support Services (DCSS) found that "most noncustodial parents appear to be served by 'substitute' service, rather than personal service, which suggests that noncustodial parents may not know that they have been served." In Los Angeles County, which is notorious for its sloppy summons service and zeal-

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ous prosecution of alleged fathers it knows to be innocent, nearly 80 percent of paternity establishments come in the form of default judgments. In the state as a whole, which establishes 250,000 paternities a year while collecting $2 billion in child support, a whopping 68 percent of the 158,000 child support orders in 2000 (the last year studied) were default judgments.

Once paternity is "established," even if the government has never communicated with the father, the county court imposes a payment rate and schedule under the statistically mistaken assumption that he makes a full-time salary at minimum wage. (State audits have found that a full 80 percent of default dads don't make even that much.) To collect the money, the county may put a garnish order on the purported father's paycheck or place liens on his assets. If the mother has received welfare assistance after the child was born, the man will be hit with a bill to pay back the state, plus 10 percent annual interest. "That's what they're trying to do, is get some reimbursement to the state," says Carolyn Kelly, public relations officer for the Contra Costa County DCSS. "As you can imagine, [that's] millions and millions and millions and millions of dollars."

If the father falls 30 days behind on his payments, he will be blocked by law from receiving or renewing a driver's license or any "authorization issued by a board that allows a person to engage in a business, occupation, or profession"—a category that includes teaching credentials, fishing licenses, and state bar memberships. If his credit rating was good, it won't be any more. If his past-due tab exceeds $5,000, the U.S. State Department won't issue him a passport. (An average of 60 Americans discover this each day. Meanwhile, Congress has been pushing to cut the limit to $2,500, while urging the State Department to begin revoking passports, which is allowed under the law.)

"When you tell people about the inequities of the system," Wright says, "they're surprised. They go, 'This is America! You couldn't do that!' And I go, 'Yes, you can.'"

Under the guidelines set forth by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, single mothers can receive welfare only on condition that the state take charge of collecting their child support, including unpaid amounts from the past. If the biological father is not paying support, he will be tracked down and hit with the bill. The admirable goal, which statistics show has partially been achieved, was to encourage more responsible sexual behavior by single women, give two-parent families an incentive to stay together, wean recipients off welfare by forcing them to work, and help them find a little extra cash they didn't have before. At the same time, however, the law gave states an explicit mandate and direct financial incentive to name the maximum number of fathers and extract from them the maximum amount of money.

The bottom-line results have been impressive: Since 1993, according to Senate testimony last March by Marilyn Ray Smith, director of the Child Support Enforcement Division of the Massachusetts Department of Revenue, child support collection nationwide jumped from $8.9 billion in 1993 to $19 billion in 2001, while paternity establishments more than doubled, from 659,000 in 1994 to 1.6 million just five years later.

But you can read thousands of pages of laws, reports, and testimonies, and not see a single reference to the importance of naming the right guy, or to the gravity of making a mistake. Since Congress first got into the child support business in 1975, the cornerstone philosophy has been to orient everything toward "the best interest of the child," which in practice has meant ensuring that the kid receives money. Now that the states also have a financial incentive—they pocket a cut of child support payments, earn performance rewards from the federal government, and enjoy the savings from reduced welfare rolls—the cash motive is stronger than ever. California, for example, crunches the numbers every which way: total child support dollars collected per dollar of total expenditure, average amount collected per case, and so on. But nowhere does the state bother to count the number of citizens it has wrongfully named as fathers. The bias is overwhelming, and abuses are inevitable.

Paternity Test

Anyone familiar with paternity misestablishment horror stories will tell you that Tony Pierce is a fortunate man. "Oh, he got really lucky," says Taron James, a wrongfully named father who recently founded a group called Veterans Fighting Paternity Fraud. "Mine's going on eight years."

First of all, even at Pierce's current low, entry-level salary, he's rolling in dough compared to most default dads. According to the Urban Institute study, of the 834,000 Californians owing

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child support in 2001, "over 60 percent of debtors have recent net [annual] incomes below $10,000. Only 1 percent have recent net incomes in excess of $50,000." It's safe to guess that, also unlike Pierce, most don't have good friends who are high-powered lawyers willing to work pro bono. Like obtaining a green card, which is a hellishly complex process navigated disproportionately by the poor, fighting a paternity complaint is nearly inconceivable without legal representation, which Wright says costs a "minimum" of $2,000. "If he can't get the two grand together, you know what?" Wright says. "He's shit out of luck."

Pierce's lawyer, Kim Thigpen, is normally an entertainment attorney, so her crash-course education in family law came as a shock. "I've never seen anything like it," she says. Thigpen was able to get the default judgment set aside—not canceled—on grounds of excusable neglect and mistaken identity, thereby blocking the wage garnishment until the mother and child settled the question once and for all by checking their DNA against Pierce's. Nearly three years and $10,000 in legal expenses later, they're still waiting for the mother to comply. (It was far easier for Contra Costa County to declare Pierce the father from 400 miles away than to compel the local-resident mother to show up for a DNA test.) At the hearing, the county attorney admitted that Pierce looked nothing like the mother's description, a fact that a simple Google search would have easily revealed, since Tony publishes a Web site that includes several dozen pictures of himself.

So how was Pierce fingered? How low is the legal threshold for placing men in the cross hairs of default justice? Both Contra Costa County and the California DCSS refused to discuss the specifics of this or any other case, citing privacy regulations (though Contra Costa's Carolyn Kelly did point out that "if you don't contact us, there's nothing we can do"). But a look at how the process works reveals great potential for error.

Counties typically launch paternity investigations for one of two reasons: Either a parent or custodian directly asks for help in locating a biological parent, or a mother applies for welfare, which now is reported to the local child support system. If the mother was unwed, says California DCSS Assistant Director Leora Gerhenzon, "you ask about when you became pregnant, why you believe that date is correct, whether or not the father was named on the birth certificate, has the father seen the child,...does the father provide for support, has he ever lived with the child,...a Social Security number....It's a half-hour [interview], or even an hour and a half to two hours."

What if the only information the mother provides, I ask Gerhenzon, is that it was 10 years ago, with a white guy named Matt Welch, now between 30 and 40 years old, who maybe lives in the Los Angeles area?

"In that case, now it depends," she says. "We run our search on him; if we come back with one Matt Welch who lives in L.A., whose birthday fits that 10-year range, and we have nobody else, we presume in general we have the person. If we come back with three Matt Welches, all of a sudden we know there's a problem. We have to call her back in, or call her on the phone, and say 'OK, here's what we've pulled up. We need more help from you to identify which is the correct [one].'"

So a name, race, vague location, and a broad age range is sufficient to launch a process that could quickly lead to a default judgment, asset liens, and a blocked passport? "Right. Right," Gerhenzon confirms. "If it's clear that she's given us enough identifying information to come up with one discrete name, we would go ahead." Wouldn't that make people with unusual names easier targets? "Absolutely."

In addition to a low threshold for accusing men of paternity, the system lacks penalties for naming the wrong father. Mothers sign their declarations under penalty of perjury, Gerhenzon says, but neither she nor anyone else I talked to for this article could recall a single case where a mother was charged with a crime for naming the wrong man. In fact, until recently California hasn't had any way to see whether a woman had named different candidates in different counties. Asked how a caseworker might respond after discovering such a disparity, Gerhenzon says, "I think in all likelihood they would confront the custodial parent with both names, and say, 'Who is the appropriate parent?'" For both the mother and the state, the punishment for making a mistake is indirect, in the form of receiving less child support. (The state is much less successful in collecting from default dads, on average, and the wrongly named defaults surely pay the least.)

So how many default judgments catch the wrong guy? Nobody knows. Paternity reform activists point to a 2000 study by the American Association of Blood Banks that

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Family court cases typically hew to the "finality of judgment" principle to prevent disruptions in children's lives. Or, in the words of former California legislator Rod Wright, "It ain't your kid, you can prove it ain't your kid, and they say, 'So what?'"

found 30 percent of the 300,000 paternity DNA tests conducted at accredited centers nationwide excluded the father. But the actual percentage of wrongfully named default dads is certainly much lower, since these samples come largely from people with doubts about paternity (as opposed to real deadbeat dads, who have considerable reason to avoid a DNA test).

Whatever the number, the state of California recognizes misidentification of fathers as a serious problem. "Some default orders are expected," reported the Urban Institute, "but a default rate of 71 percent statewide indicates that something is terribly wrong." In its study, which addressed the collectibility of California's $17 billion in outstanding support, the Urban Institute's No. 1 recommendation was to "reduce default orders." The DCSS now has a Default Work Group, established at the behest of former Gov. Davis after he vetoed one of the reform bills, that is preparing recommendations for reducing the rate.

"What we have done in the past is sped up many of these defaults," Gerhenzon says. "And they were penny-wise and pound foolish, maybe, to go ahead and get quick orders.... And what we've certainly learned through our collectibility study, and...through general customer service, is that it is far, far better to get the right parent up front....In cases where we actually, because of the default, have the wrong parent, we end up collecting a whole lot less money."

Innocence Is No Defense

The systems for establishing paternity and providing child support are replete with legal deadlines that vary from state to state. Besides having 30 days to respond to a paternity complaint, an accused father in California has 180 days to contest a child support order and two years from birth to challenge paternity using DNA evidence (unless he has signed a voluntary declaration of paternity in the hospital under the federal government's new Paternity Opportunity Program, in which case he has just 60 days). If, for whatever reasons, any of these deadlines aren't met, no amount of evidence can move the state to review the case; the DCSS has to be sued. Unlike capital murder convictions, which are being overturned around the country because of DNA evidence, family court cases typically hew to the "finality of judgment" principle to prevent disruptions in children's lives. Or, in the words of former California legislator Rod Wright, "It ain't your kid, you can prove it ain't your kid, and they say, 'So what?'"

That's how a man like Taron James could be slapped with a support bill for thousands of dollars from Los Angeles County in 2002, and continue to be barred from using his notary public license, even after producing convincing DNA evidence and notarized testimony from the mother that her 11-year-old son, whom he's seen exactly once and looks nothing like, is not his child and that she no longer seeks his support. James says his name was placed on the child's birth certificate without his consent while he was on a Navy tour of duty; then the mother refused to take blood tests for eight years, and he became aware of a default order against him only when the Department of Motor Vehicles refused to issue him a driver's license in October 1996. By that time, James had missed all the relevant deadlines, the court was unimpressed with his tale of woe, and he has since coughed up $14,000 in child support via liens and garnishments.

"I contact Child Support Services, and their whole thing is, 'Take us to court. You don't like what we're doing, take us to court,'" he says. "Whether or not you're the biological father

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"I'm a veteran—I fought for and defended my country," Taron James says. "To be treated like this is ridiculous....Right now, I'm fully disgusted with California and the United States for allowing this to go on after I put my hind end on the line."

doesn't matter—if someone's got your name, and you've...failed to participate in the court date, then you have an obligation to pay child support, period."

Needless to say, taking DCSS to court is expensive (James says he's already run up legal bills of $4,000), and success isn't likely. To add insult to injury, even if you win, you won't get any of your money back.

State bureaucrats say their hearts bleed, but rules are rules. "We are obligated by law to enforce the order," says California DCSS's Gerhenzon. "We have no ability not only to stop enforcement of our own, but not to proceed with doing everything we can to get child support in this case, because we have to enforce the legally established order. The recourse is to get that order set aside, or overturned."

When judicial systems enthusiastically enforce rulings they know to be unjust, it's a surefire formula for creating activists. After writing scores of letters to politicians and conducting endless Internet searches, James and his girlfriend, Raegan Kelly, hooked up with a national group called U.S. Citizens Against Paternity Fraud, founded by a Georgia engineer named Carnell Smith. Smith paid more than $40,000 in support over 11 years to an ex-girlfriend's child he assumed to be his, until she requested more money in 1999. He then took a DNA test and discovered he wasn't the father, but the court ordered him to pay $120,000 anyway. Enraged, he launched Citizens Against Paternity Fraud and began lobbying the Georgia legislature to change laws that limited the admissibility of DNA tests. In May 2002, the effort passed, so now at least some default dads in Dixie—those who have never adopted their children or officially acknowledged paternity—can overturn support orders using DNA evidence, regardless of how much time has elapsed. In March of last year, under the new law, Smith's personal support order was finally overturned.

Similar laws have passed in Virginia, Ohio, Iowa, Arkansas, and Alabama; others are working their way through statehouses in Texas, New Jersey, California, Florida, Michigan, Vermont, and elsewhere. Meanwhile, courts across the country are trying to redraw the legal lines of paternity now that genetic testing and welfare reform are colliding with 500 years of common law tradition, which has presumed that all children born in a marriage are the husband's responsibility, whether or not he is the biological father. In May 2003, the New Jersey Supreme Court ruled that men who have admitted paternity, even if the mother lied to them, are not allowed to introduce DNA evidence to challenge support orders. Carnell Smith has been trying to push the issue to the U.S. Supreme Court, so far without success.

Although paternity fraud activists are beginning to gain traction, they face formidable obstacles. The Welfare Reform Act is largely a popular success. More two-parent families are staying together, more single mothers are entering the work force, and child support collections have doubled. By just about any measure, these trends are in the best interests of the affected children. In Massachusetts 18 years ago, for example, women had a miserable rate of success (around 10 percent) in suing for paternity, according to Marilyn Ray Smith, the state's chief child support enforcer, and genetic tests were inadmissible except to *disprove* paternity. For single mothers and their children, the legal climate obviously has changed much for the better.

Which helps explain why so many feminist groups and politicians have dug in their heels to block paternity

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reform bills. Considered in zero sum terms, any change that prevents some unjustly named fathers from supporting kids they didn't sire reduces the amount of money children and single mothers receive while increasing states' welfare payouts. Child support advocates also worry, with some reason, that narrow-sounding legislation aimed at preventing obvious injustices may become a Trojan horse for men who change their minds about the responsibilities of fatherhood. But that's rarely how the issue is presented. Women's groups usually argue that fatherhood cannot be measured by DNA alone—a disingenuous stance, considering the thousands of men who pay for kids they've never lived with.

"What makes a father?" California state Sen. Sheila Kuehl (D-Santa Monica) said in an August 2002 interview with the *Los Angeles Times*, explaining why she was voting against Rod Wright's latest reform bill. "This bill says the donation of genetic material makes a father. I don't agree."

Kuehl, a former family law attorney who cosponsored a law that reworked California's child support system in 1999, has been the single biggest opponent of paternity-related reform bills in the state, to the point where activists like James and Kelly refer to her as "Sheila Cruel" and are planning demonstrations outside her office. Kuehl refused repeated requests to comment for this article. "She says it's not her issue," a spokeswoman told me. "She's not interested to talk about it."

Wright, who considers Kuehl a friend, says he tried several times to sway her with individual stories of innocent victims who'd been trampled by the current system. "Sheila said to me one day in a hearing room: 'You know, I understand that, through the convergence of science and thousand-year-old common law, we have to work toward a kind of balance. And I side with the kids; I don't really care about this guy.'" Wright chalks it up to the prevailing political winds. "If this was a case where women could be charged similarly," he says, "Sheila would be all over this like a cheap suit. It's really a case where it becomes a guy vs. a child. So it's like, 'Well, screw the guy.'"

Paternity activists argue that the best interests of the child should include, among other things, knowing who her real biological father is, so she can have accurate medical information. And every day the wrong man is on the hook, they point out, is a day not spent finding the real father.

"They have failed her," Tony Pierce says of Contra Costa County's effort on behalf of his supposed daughter. "If they're in it to feel good about themselves and to go to heaven because they're fighting for women—no, they're going to hell, because they have not found this woman's father, and they have tried to fuck *me* over....What they should have said right away is, 'Hey look, this isn't the guy; let's get the [right] guy.'"

Every child support official I talked to was sensitive to the criticism and eager to discuss many past and future reforms aimed at reducing the number of default judgments, humanizing the system, and even (in the words of Contra Costa County's Kelly) eliminating the word *deadbeat* from their vocabulary. "This is a tough area," California DCSS's Gerhenzon says. "When you have bad results in these situations, they are tough on everyone involved in the process: the parents, the legal parents, the child, the system. It is to everyone's benefit not to have these cases come up."

But as long as state and federal laws remain as they are—with low evidentiary thresholds for issuing paternity complaints, no proof of service required, the presumption of guilt in default cases, a series of short legal deadlines beyond which paternity becomes extremely difficult to challenge, and financial incentive for the government to keep naming dads and extracting money—these cases will continue to come up. "I can see how so many men could be totally screwed right now," Pierce says. "You know, I was educated, I had a good job, I'd never been involved with the cops before, I had nothing to fear, nothing to run from. But still, I got tied into it....I can see where this stuff could create many victims."

Victims like Taron James, who lost at least two jobs while putting his life on hold for eight years so he could fight a judgment that should have never been made. "I'm a veteran—I fought for and defended my country," James says, sitting in a Torrance, California, park down the street from his great aunt's crowded house, where he lives with his girlfriend and splits his time looking for work and flying to Sacramento to lobby legislators. "To be treated like this is ridiculous....Right now, I'm fully disgusted with California and the United States for allowing this to go on after I put my hind end on the line." ▪

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Teenage Wasteland

Critics on the left and right falsely portray kids as passive victims of mass media.

Carl F. Horowitz

Kid Stuff: Marketing Sex and Violence to America's Children, edited by Diane Ravitch and Joseph P. Viteritti, Baltimore: Johns Hopkins University Press, 267 pages, $29.95

Branded: The Buying and Selling of Teenagers, by Alissa Quart, Cambridge, Mass.: Perseus Publishing, 239 pages, $25

HOLLYWOOD HAS BECOME to the right what big corporations are to the left. When it comes to criticizing popular entertainment, the two targets coincide, and the differences between left and right dissolve. I vividly remember the ghastly sight of Jesse Jackson and Bill Bennett appearing together on CBS's *Face the Nation* a decade ago, united in their eagerness to protect vulnerable youth from cultural pollution.

Two new books, one mainly from the right and the other from the left, reflect this bipartisan view of America's young people as victims of mass culture and mass marketing. But both also contain hints that kids are not empty vessels waiting to be filled with evil desires—that in fact, they and their parents can counteract the antisocial messages decried by critics like Jackson and Bennett.

Kid Stuff: Marketing Sex and Violence to America's Children must be understood in the context of the Federal Trade Commission's September 2000 report on the entertainment industry's allegedly deceptive marketing practices. Congress ordered up the study immediately after the 1999 massacre at Columbine High School, largely because the two killers reportedly had played the video game *Doom* and seen the film *The Matrix* shortly before their rampage.

Despite the FTC's lukewarm conclusion that violent depictions *might* have a harmful effect on minors, *The Wall Street Journal* and other alarmed guardians of morality latched onto the report, along with a joint statement from the American Medical Association and other health organizations condemning media violence, as an excuse to ratchet up their culture war. Sen. Joseph Lieberman (D-Conn.) denounced Hollywood's "culture of carnage." He and his allies insisted that the debate about the relationship between fictional and real-life violence had been settled; now was the time for action.

The contributors to *Kid Stuff*, a collection of 11 essays, do want action, but first and foremost they are empiricists. And the data come flying fast and furious, occasionally making some inescapable points. Media, to a certain extent, do act *in loco parentis*. The average American child spends some 5.5 hours a day interacting with media (including the Internet), a figure that rises to seven hours by age 18.

Many of the contributors to *Kid Stuff* insist that movies, TV shows, and video games not only assault kids with sex and violence but induce them to imitate what they see on the screen, ultimately causing them to lose their moral compasses.

Syracuse University historian Elizabeth Lasch-Quinn sees America awash in a culture of moral obscenity. Popular culture routinely strips people of their humanity, she argues, tediously detailing content analyses showing, for example, that "children who watch an average amount of TV see 8,000 murders and more than 100,000 other acts of violence during their elementary school years." She adds, "By renting just four videos—*Total Recall*, *Robocop 2*, *Rambo III*, and *Die Hard III*—a child would witness 525 deaths." Iowa State psychologist Craig Anderson, in his review of 32 studies on violent video games, con-

Video footage of Columbine High School killers taking target practice, Zuma Press

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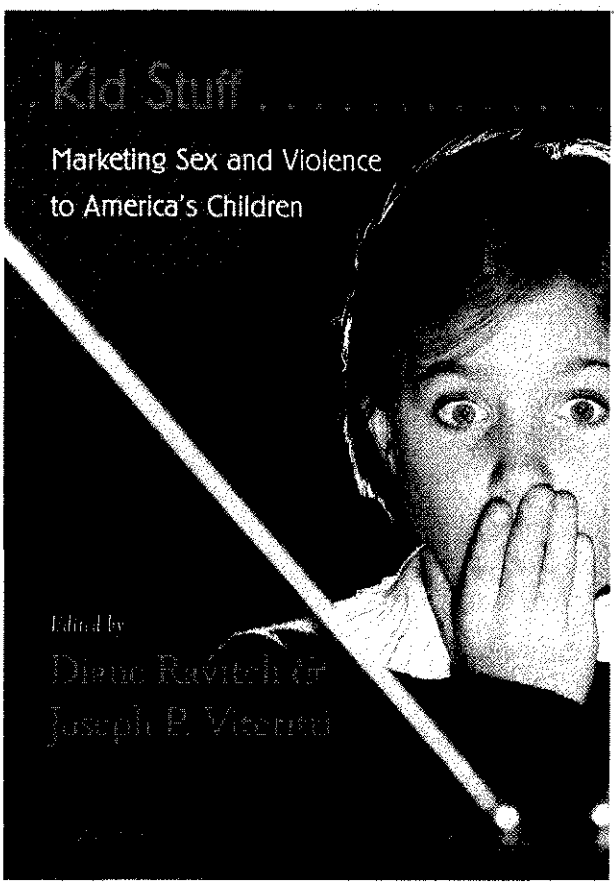

cludes that repeated game playing heightens aggression and reduces pro-social behavior among both children and adults.

Such concerns fly in the face of two realities. First, youth crime has dropped sharply in the last decade. From 1992 (the year *Mortal Kombat* debuted) to 2000, arrests for serious juvenile crime fell by about two-thirds, while the number of children carrying guns to school dropped by half. As for sex, a recent study by the Kaiser Foundation (one of the leaders in the cultural cleanup crusade) revealed that the percentage of high school students who had engaged in sexual intercourse declined from 54 percent in 1991 to 46 percent in 2001. Hollywood may not deserve credit for those trends, but it clearly cannot be blamed for increases in sex and violence that have not occurred.

Second, declarations about the baneful influence of popular culture gloss over the dearth of evidence supporting a causal link between watching portrayals of violence and engaging in violent behavior. As scholars such as University of Toronto psychologist Jonathan Freedman and University of Southern California sociologist Karen Sternheimer have shown, the experimental studies the alarmists like to cite may hinge on self-fulfilling prophecies, with researchers prodding subjects into giving the "right" answer. Furthermore, it's not clear how the stimuli and measures of aggression used in the highly artificial setting of a laboratory relate to viewing and violence in the real world.

The epidemiological studies are also seriously flawed. Critics of violent TV often cite the work of Seattle psychiatrist Brandon Centerwall. In a 1992 *Journal of the American Medical Association* article, Centerwall noted that the white homicide rate in the U.S. rose 93 percent in the three decades following the introduction of household television sets. For him, this trend demonstrated the corrosive effects of TV. Oddly, Centerwall did not distinguish between violent shows and other kinds of programming, and it's not clear what he would have found if he had. SUNY-Albany sociologist Steven Messner has found that metropolitan areas in which violent TV programs attract especially large audiences have *lower* rates of violent crime.

Centerwall also failed to note that the homicide rate barely changed from 1945 to 1967; the big increase started in the late 1960s, suggesting that something other than TV was at work. Two University of California at Berkeley criminologists, Franklin Zimring and Gordon Hawkins, tested Centerwall's thesis with data from other countries, and they found no consistent pattern. The murder rate remained constant in Italy and declined in France, Germany, and Japan following the introduction of TV.

Two other favorites of the culture warriors are Leonard Eron and L. Rowell Huesmann, psychologists at the University of Michigan whose research played a crucial role in the passage of "V-chip" legislation, which requires that TV sets include devices enabling parents to block shows based on network content ratings. Eron and Huesmann's most memorable moment came in testimony before the Senate Judiciary Committee in 1986, when they showed that a preference for violent TV at age 8 correlated with the seriousness of criminal convictions by age 30. This claim was based on a sample of three cases.

Since the evidence in *Kid Stuff* tends to be selected for its usefulness in an indictment of popular culture, it's little surprise that many of the contributors are eager to restrict kids' exposure to TV, movies, video games, and music. But they generally prefer that Mom and Dad serve as the regulators. "Why are [parents] so intimidated by the V-chip?" wonder the editors, Diane Ravitch and Joseph

Kid Stuff (cover)

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Viteritti, research professors of education and public policy, respectively, at New York University. Anderson, the Iowa State psychologist, commends a San Antonio news reporter who admitted to him that she throws out any video games containing violence that she finds at home, regardless of whether they belong to her son or one of his friends. Anderson supports a unitary entertainment rating system, which in practice probably would be less draconian than useless. Parents already have a wealth of information about the suitability of programming for kids; hard as it is for media critics

Youth crime rates and sexual intercourse rates are down. Hollywood clearly cannot be blamed for increases in sex and violence that have not occurred.

to believe, many parents just don't put much stock in ratings.

None of the contributors overtly calls for censorship. They frame their goal as balancing First Amendment values with protection of children. Yet this pose seems disingenuous, nowhere more so than in the book's concluding piece by Newton and Nell Minow. It was the former, as chairman of the Federal Communications Commission under John F. Kennedy, who described network television as "a vast wasteland."

Surveying today's wasteland, now pockmarked with the likes of *Jackass* and World Wrestling Entertainment, he advocates enhanced federal regulatory authority over broadcast and cable TV, increased V-chip use, and campaigns (including lawsuits) by media watchdog groups to force networks to devote more programming to "the public interest." He and his daughter applaud the Parents Television Council's efforts to shame and boycott offending networks and advertisers. "It's time to give the censorship charge a rest," they write, "and force the people who produce outrageously violent and sexually explicit material to admit that it is not about freedom; it is about money, and as long as they think they can make some, they will continue to produce it."

Despite its undercurrents of authoritarianism, *Kid Stuff* does offer some pleasant surprises. The contributors generally avoid projecting malevolent motives (beyond a desire for profit) onto the entertainment industry. A few authors, especially Columbia University sociologist Todd Gitlin and University of Toledo psychologist Jeanne Funk, make an honest effort to explain the market forces that shape media culture, understanding the futility of completely shielding children from it. "A child, even a vulnerable child," Funk writes, "is not just a sponge that unthinkingly soaks up media messages. Research on media literacy suggests that talking to children about their media experiences can alter the impact of media violence."

Even that formulation assumes that media violence is a bad influence, albeit one that can be countered by moral immunization. In *Killing Monsters: Why Children Need Fantasy, Superheroes, and Make-Believe Violence* (2002), Gerard Jones had the temerity to suggest that media violence, far from traumatizing kids, might be therapeutic. The idea of violent entertainment as a positive influence gains support from the comments of a New Jersey teenager who objected

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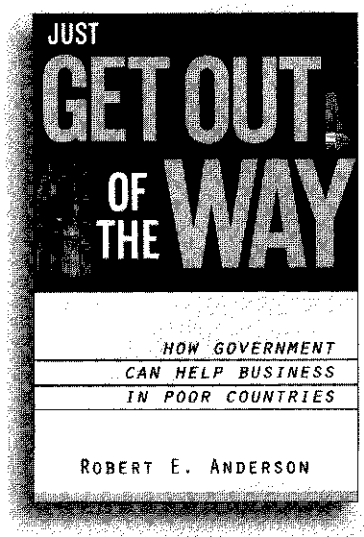

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to a post-Columbine *Harper's* article criticizing violent video games. "As a 'geek,' I can tell you that none of us play video games to learn how (or why) to shoot people," he said. "For us, video games do not cause violence; they prevent it. We see games as a perfectly safe release from a physically violent reaction to the daily abuse leveled at us." The culture warriors who contributed to *Kid Stuff* should have spent some time talking to consumers like him.

Alissa Quart, a freelance journalist who has written for *The Nation*, did just that. In *Branded*, she observes that if mass media are convincing youth to do anything, it's not to kill or copulate but to shop. Quart's analysis bears a strong imprint of leftist media critics such as Thomas Frank and Mark Crispin Miller. There are intimations here and there of capitalism as a cabal, but the book rings true in too many places to be dismissed as an ideological rant. The thirtyish Quart went out and spoke to "tweens" (7- to 14-year-olds) and teens—lots of them. Although a bit too old to pass as a native, à la Drew Barrymore in *Never Been Kissed*, she knows their vernacular and their anxieties.

Quart argues that during the past decade or so America's youth, egged on by their parents, have become wedded to consumption as personal identity: You are what you buy. In their desperate pursuit of peer acceptance, she avers, young people more than ever are suckers for mass advertising's pitches for the right (read: expensive) brands. Teenagers, Quart notes, spent $155 billion in discretionary income in 2000. Knowing where the money is, many companies hire youths as market trend spotters; the magazine *Teen People* alone has deputized some 10,000 kids in this capacity.

The retailing, publishing, film, and sports industries are increasingly focused on getting young people to associate consumption of hip brands with social acceptance. Greater affluence combined with the need for acceptance has led to rapid rises in plastic surgery, breast enlargement, steroid use, and anorexia, all manifestations of what Quart calls "self-branding."

The book's chapter on higher education, which describes the cutthroat competition to get into a small number of elite institutions, best illustrates where Quart hits, and misses, the mark. Childhood, she argues, is becoming one long entrance exam. Not any college or university will do; all that preparation will be a waste if a son or daughter is destined for no better than a good state university or even a highly ranked but semi-obscure private four-year college such as Grinnell, Bowdoin, or Oberlin. When $30,000 to $40,000 a year in tuition, fees, and room and board is on the line, only the Ivies, and a few other prestige universities such as Stanford, Northwestern, and Duke, will suffice.

Parents may be even more obsessed than their kids with the status conferred by the right college. A prominent college tutor/counselor describes her clients' attitude this way to Quart: "My kid has to get into Harvard or Princeton or I will kill myself." Children, taking their cue, see higher education as a logo identity. They select extracurricular activities (often inflated or invented) with an eye toward pleasing admissions officers. A child these days doesn't take French or cello lessons out of enjoyment; he takes them because years later they will look good on a college application. Tom Cruise's strategy to get into Princeton in *Risky Business*—running a brothel out of his parents' house—seems honest by comparison.

Quart's dissection of status anxieties is brilliant, but her focus is restricted to academic overachievers bred by upper-income parents. One suspects that her hand wringing is akin to traditionalists' laments about the "epidemic" of childlessness that in fact characterizes a relatively small stratum of higher-income professional couples in their 30s. Moreover, Quart doesn't admit that, up to a point, getting kids to compete is necessary. The demand for the most desirable slots in any endeavor inevitably exceeds the supply. Parents naturally want the best for their children, whether in the form of a wardrobe, an

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education, or a wedding. If they (and their children) are spending more money on these things than ever before, maybe it's because they have more to spend.

In a sense, Quart is a descendant of a tradition begun in the mid-19th century by Marx and Engels on the left and Matthew Arnold on the right, the *soi-disant* voice in the moral wilderness excoriating the base appetites of an emerging commercial culture. But in another sense she's a realist. Far more attuned to markets than such contemporary critics of crassness as Benjamin Barber and Wendell Berry, she writes with empathy and insight about the dark side of the branding game, the taunts and rejection directed at those who consume the "wrong" things.

Students marked by classmates as dorks and losers may resort to vengeance of the sort seen in Littleton, Colorado, and elsewhere. And let's admit it: There *is* something decadent about people whose conversation and behavior revolve almost entirely around acquiring material things and other badges of status, all the while pitying the poor souls down the pecking order. Such people, of course, rarely will admit being slaves to fashion. Bill Buckley remarked many years ago that even George Babbitt didn't approve of Babbittry; he merely practiced it.

Youth themselves must take the initiative to get off the consumption treadmill, Quart argues. "Do It Yourself" culture, that public square populated by punks, Goths, hippies, and other castoffs, is her ideal way to air grievances and conduct transactions, with activities ranging from music file sharing to high school plays to thrift store shopping. Where the *Kid Stuff* authors generally prefer to rein in untutored youthful desire through a combination of media self-policing, closer parental supervision, and government oversight, Quart would decommodify desire by creating anti-branding platoons. Although she certainly would object to such a characterization, deep down she's a left-libertarian, blasting away at Edison Schools while defending homeschooling.

Both of these books suggest that young people need better emotional equipment to deal with the opposite tugs of individuality and belonging. Teenagers, like everyone else, want to be themselves but dread being left out. Most lack the maturity to resolve this tension on their own, especially when they're experiencing sexual desire (and rejection) for the first time. That's why parents should provide more guidance, beginning with their own firsthand observation that youth is fleeting.

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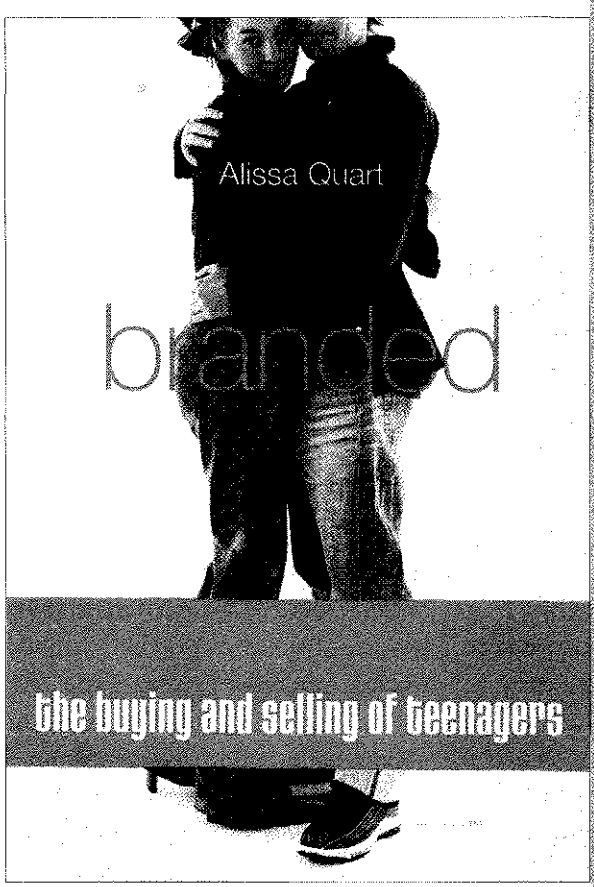

Branded (cover); Los Angeles International Airport Theme Building, from *Where's My Space Age?*

Goodbye, Space Child

The space age's bureaucratic dreams sputtered out

Objective Joint Venture

Anybody seen Space Child lately? You surely remember him: He was the big-eyed icon of a transcendent tomorrow, the trans-evolutionary infant who appears at the end of Stanley Kubrick's *2001: A Space Odyssey* (1968), after the big cosmic light show.

Space Child once stared out at us, it seemed, from all over the place, especially from the future. But that was decades ago. Is he gone? If so, his obit should note that he didn't exactly die; he just failed to be born. The future that he presaged lost its meaning and evaporated, negating his existence.

When did such a thing happen? It happened when the Space Age became a part of the past.

Where's My Space Age? demands a new book by Sean Topham (Prestel). The heavily illustrated work is about, as the subtitle puts it, "the rise and fall of futuristic design." It concerns itself not with Space Child, but with spacey graphic art, spacey fashion, spacey architecture, and so on. Yet »

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Bush's Bad Foreign Policy

Unilateralism and remaking the world don't mix.

Steve Chapman

America Unbound: The Bush Revolution in Foreign Policy, by Ivo H. Daalder and James M. Lindsay, Washington, D.C.: Brookings Institution Press, 238 pages, $22.95

PERHAPS NO COUNTRY in history had ever enjoyed the position that the United States held in the wake of the Soviet Union's collapse. The U.S. was so pre-eminent in military power as to be unchallengeable in any serious way, but it was also widely admired and emulated. We enjoyed unparalleled influence that could be sustained without the use of force. We had no enemies of any consequence. America was unbound and, at least in relative terms, unburdened.

September 11, 2001, closed that chapter in our history. Yet stunning as that day was, it ultimately served to enhance America's stature and its security. Horrified by the sight of those vast towers collapsing into dust, the world rallied behind the United States. The Bush administration resolved to punish Al Qaeda and its allies, making sure they could never hurt us again. The U.S. invaded Afghanistan, toppling the Taliban regime that had harbored Osama bin Laden.

That moment marked a new pinnacle, demonstrating how quickly and easily the United States could apply its military power to destroy its enemies. Our speedy, almost cost-free victory came as a welcome surprise to our friends and sent a stark warning to anyone inclined to challenge us.

The attainment of nearly complete security, however, made some Americans, including the president, even less tolerant of the dangers that remained. One in particular stood out: Saddam Hussein. Never mind that he had been defeated, defanged, isolated, and contained. Never mind that he had not attacked the United States, threatened to attack the United States, or acquired the means to attack the United States. He was a longstanding nuisance, one that Bush decided not to tolerate any longer.

How different things look now. Instead of having the sympathy and support of the world, the United States has become a near-pariah. Instead of being able to mobilize the United Nations and other institutions behind our various ventures, we find the U.N. resisting, obstructing, and at the very least declining to provide much help. Other countries paid most of the cost of the first Gulf War. This time we're facing a large and growing bill almost alone. Despite the U.N. resolution in October that gave the American occupation effort an international mandate, few countries have offered substantial financial help, much less military support.

Worse, the invasion of Iraq led to a debilitating, open-ended guerrilla war in a Third World country where public sentiment runs the gamut from impatient to hostile. Six months after the president declared the end of major combat operations in May, we had suffered nearly 2,300 casualties, put terrific strains on the military services, incurred a cost that has already reached $155 billion, and isolated ourselves diplomatically.

Rebuilding Iraq has been a much greater undertaking than the administration expected, and many problems that were supposed to be solved by a U.S. occupation have gotten more intractable, not less. For example, rather than being cowed by American might, North Korea and Iran, the other two members of Bush's "axis of evil," have made progress toward becoming full-fledged nuclear states. The Arab-Israeli conflict has continued to spill blood on both sides. Terrorists who had been beleaguered and marginalized are now on the offensive in the chaos of postwar Iraq.

The crackup didn't happen by accident. In *America Unbound*, Ivo Daalder and James Lindsay argue that the war reflected Bush's approach to foreign policy: assertive, unilateral, enamored of pre-emptive action, and eager not to contain enemy regimes but to eliminate them.

During the Cold War, anti-communists dreamed of rolling back the tide of Soviet conquests but were constrained by the threat of nuclear war. Bush was able to take a more aggressive approach, Daalder and Lindsay write, because of his "belief that nobody could push back." Nor was he about to be inhibited by the fear of alienating other countries. In a unipolar world, Bush felt the United States had the right, the duty, and the power to act entirely on its own to advance its interests. By acting on that belief, the authors contend, Bush "set in motion a revolution in American foreign policy. It was not a revolution in America's goals abroad, but rather in how it achieved them."

Daalder and Lindsay, who toil respectively at the Brookings Institution and the Council on Foreign Relations, don't pretend that Bush is a dedicated student of international relations. But they give him credit for having clear instincts and admire his determination to act on them. Those who assumed he would be the captive

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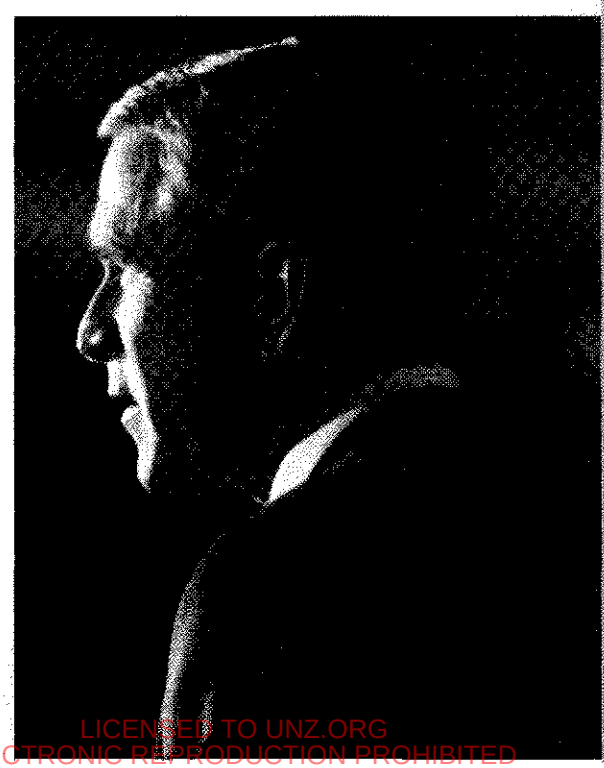
of his advisers were badly mistaken, they contend: "He may have entered the Oval Office not knowing which general ran Pakistan, but during his first thirty months in office, he was the puppeteer, not the puppet. He governed as he said he would on the campaign trail." His philosophy, expressed before and after the election, was that "America should use its primacy to advance its interests and values, not to curry favor with foreign countries." Daalder and Lindsay see him as "a revolutionary" who has distinguished himself by being "bold rather than timid, proactive rather than reactive."

America Unbound is a thorough and learned account of how Bush has handled international relations. It's also balanced, to the point that sometimes the authors can't quite seem to decide whether to give the president an A or an F. Though much of the book's material is familiar, it pulls together just about everything that is publicly known on the subject and does a competent job of trying to make sense of what has occurred. It is written in a brisk, engaging style that one does not automatically associate with Washington think tanks.

But the authors' insistence on evenhandedness sometimes gives Bush too much credit. The idea of advancing U.S. interests that they attribute to him was not so much a theme as a substitute for a theme, since it had no obvious meaning either to the electorate or the candidate. And whatever it meant changed in transit from the campaign trail to the White House: A stated aversion to "nation building" in 2000 gave way in 2003 to the most ambitious effort at nation building since the Marshall Plan.

At the 2000 Republican convention, Condoleezza Rice said America should not be the world's 911. When Liberia called that number, though, Bush answered, sending Marines to help West African peacekeeping forces end the country's 12-year civil war. Like many a presidential candidate, he criticized the incumbent administration for not being tougher on China. But when an American spy plane had to land in China after colliding with a Chinese fighter, he agreed to a deal that required the U.S. to meekly attest it was "very sorry" its plane had breached Chinese airspace.

Daalder and Lindsay see continuity between the early Bush and the late Bush. But the evidence suggests a different story. Before the 9/11 attacks, he had no real idea what he wanted to do with America's military and diplomatic resources. As they note, he said early in his presidency that "the United States has no more important relationship in the world than our relationship with Mexico"—which told more about Bush's limited acquaintance with the world than it did about Mexico's strategic importance. Lacking much knowledge of foreign relations, he settled on policies that were vague and inconsistent—until the terrorists presented Bush with a clear duty: to avenge the crime and make sure it couldn't happen again. For him it became not just a responsibility but



America Unbound (cover detail)

Goodbye, Space Child

Topham believes that "art and culture have always reflected the public's mixed emotions" about the space era, whether awe (at its achievements) or repulsion (at its Cold War motivations). Bit by bit, toy-box illustration by comic-book cover by metallic dress by modular house, Topham offers us the now-obsolete material evidence of anticipation, the stuff Space Child would have eventually unloaded at a garage sale before moving into an assisted-living facility.

Here, for example, is a tattered wrapper from Man on the Moon chewing gum, and an old box of Space Patrol candy in the form of "sweet cigarettes." Maybe you missed those. (Russia produced a line of tobacco cigarettes named for its space dog, Laika.)

But here's something no one who lived through the period missed: It's the sleeve from The Tornadoes' 1962 instrumental hit "Telstar," the first release by a British group to hit No. 1 on the U.S. Top 40. (The group's bassist reportedly became a bakery deliveryman, a little fable, perhaps, of unfulfilled tomorrows.)

If you were born too late for The Tornadoes, you can land at Los Angeles International airport and check out its "futuristic" Theme Building, a remaining echo of space design that survived its obsolescence and has now achieved nostalgia.

The Space Age is hardly the only future that didn't happen. Magazines like *Popular Science* and *Mechanix Illustrated* »

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a mission, as it likely would have for any president. Most foreign policy issues are complicated. Coming under attack from abroad is not.

The obvious lesson of 9/11 is that when you are attacked repeatedly by a capable, dangerous, and unscrupulous enemy—as the United States had been in the 1990s by Al Qaeda—you can't afford to ignore it. The threat posed by Al Qaeda was not exactly a secret before 9/11, but it was never taken as seriously as it should have been by President Clinton, by the American people, or by Bush in the first eight months of his term. When someone declares war on you, declining to fight is not an option. After 9/11, Bush recognized that.

But he also extracted a broader and dangerously erroneous lesson. He concluded that the United States has to attack its enemies before they attack us, long before the potential threat ripens. He declared a new doctrine, asserting that "we will not hesitate to act alone, if necessary, to exercise our right of self-defense by acting pre-emptively." In addition, he embraced the ambitious idea promoted by advisers like Richard Perle and Paul Wolfowitz that the United States could best protect its security and honor its values by acting vigorously to spread democracy abroad. His handling of Iraq wedded the two policies. Invasion would erase the possibility that Saddam would someday endanger us with weapons of mass destruction and allow the creation of a democratic state that would stimulate liberalization throughout the Middle East.

The actual outcome has not been quite so congenial. Daalder and Lindsay think Bush stumbled because he was "blind to the limits inherent in the unilateral exercise" of American power. In fact, they say, "Bush's war demonstrated the importance of basing American foreign policy on a meld of power and cooperation." But did it really? The real flaw in his policy was its confusion of relative power with absolute power.

America certainly has the military might to defeat any country on earth. But there are limits to what it can do beyond that. The invasion and occupation of Iraq would be only modestly easier and less expensive if Bush had mobilized a broad coalition of countries to help. To match past nation building efforts, half a million troops would be needed in Iraq, which is more than any conceivable coalition could provide.

What we are likely to face in Iraq is similar to what the British confronted in trying to maintain their empire: The price eventually exceeded its value.

Ruling over an alien people in the 21st century is an uphill struggle, regardless of how many allies you have. What we are likely to face in Iraq is similar to what the British confronted in trying to maintain their empire: The price of the undertaking eventually exceeded its value.

Daalder and Lindsay think the president's worst error is his unilateralism, arguing that the "fundamental premise of Bush's revolution—that America's security rested on an America unbound—was profoundly mistaken." There is something to this argument. But unilateralism was not Bush's invention. Bill Clinton also offended many other governments by balking at collective action on matters ranging from global warming to the international ban on land mines, and Ronald Reagan often clashed with our closest allies despite the looming Soviet threat.

In Bush's case, the go-it-alone approach was a mistake for two main reasons. One is that it blinded him to realities that other governments understood, such as the feasibility of corralling Saddam through containment and deterrence. The other is that it conflicted with his hugely ambitious agenda. A nation that wants to exert control over events in every corner of the world needs lots of allies in the effort. As Daalder and Lindsay contend, it can't afford to alienate the world.

But Bush's greatest mistake was refusing to acknowledge the limits of what even the world's sole superpower can do. As the debacle in Iraq has shown, the costs of such intervention can escalate rapidly, the benefits can prove dubious, and the options for escape can be highly unsatisfactory. Whatever happens in Iraq, the nasty aftermath will almost certainly dampen public support for new military adventures.

That's why the Bush "revolution" in foreign policy (fortunately) looks like a short-lived aberration rather than a lasting template. The United States may be powerful enough to act without tying its actions to the cooperation of other governments. In some cases, such latitude can be liberating. But if you were looking for a phrase to describe the situation in Iraq, "America unbound" wouldn't be it. ▪

Steve Chapman (schapman@tribune.com) is a columnist for the Chicago Tribune.

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In God's Country

Thanks be to the American Atheist

Tim Cavanaugh

The Atheist: Madalyn Murray O'Hair, by Bryan F. Le Beau, New York: New York University Press, 321 pages, $29.95

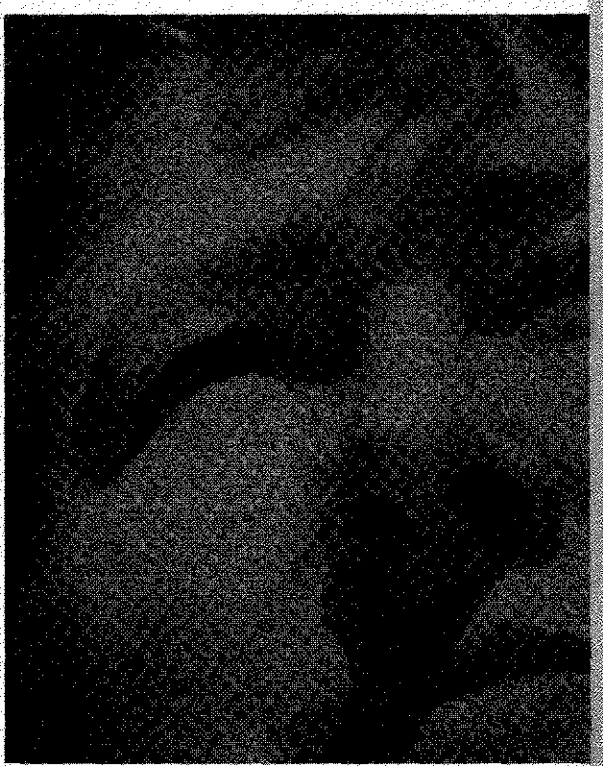
BEFORE THE U.S. Constitution, before long division, before sentence diagramming, the teachers at Blessed Sacrament School made sure I absorbed three lessons: that John F. Kennedy, America's greatest president, had been a Roman Catholic; that my left-handedness, a condition barely removed from mental retardation, would prevent me from ever achieving the sumptuously rounded, deftly tilting style of penmanship necessary for success in adulthood; and that Madalyn Murray O'Hair was, quite justly, the most hated woman in America.

While I shared the nuns' disapprobation of O'Hair, whose lawsuit against the Baltimore school system helped remove organized prayer from public schools, their argument that she was a national menace seemed at the time—the mid-1970s—as fantastical as the dogma of transubstantiation. The claim that O'Hair had made it "illegal to pray in schools" didn't square with our daily schedule of devotions. A few years later I transferred to public school, where December sing-alongs of "Silent Night" and "Oh Dreidel" foiled my expectations of godless sterility. If such post-sectarian neutrality was the mess O'Hair had made, it seemed an eminently reasonable mess.

It was in considering O'Hair as a figure that I saw the nuns' point. Mother of two illegitimate sons by two fathers, a Central Casting battle ax more cunning than brainy, driven by a sense of miserable but conscientious maternalism, O'Hair made her case against religion as no polished lawyer or pointy-headed academic could have. She was one of us.

At the time she had already become a pre-Jerry Springer sideshow attraction, with touring debates against the Rev. Bob Harrington ("Chaplain of Bourbon Street") and get-a-load-of-this appearances with Mike Douglas and Phil Donahue. O'Hair's angry lack of polish marked her as the kind of mom who might single you out for bitter sarcasm when it was her night to work the Little League refreshment stand. By the time of O'Hair's 1995 murder, the few Americans who noticed seemed to think she'd gotten what she deserved. That we all may owe Madalyn Murray O'Hair a debt of gratitude is a truth rarely acknowledged.

The achievement, and the downfall, of Bryan F. Le Beau's *The Atheist* is to whip O'Hair's flabby popular image back into shape, to show the dialectical brilliance she mixed in with her sailor talk, the intellectual muscle packed into that flower print muu-muu. This book fills an important gap in O'Hair biography. Until now



The Atheist (cover detail)

» Goodbye, Space Child

are troves of misdirected speculation about how various optimistic futures would look and how they would work. Misdirection also marks the work of such design institutions as Germany's Bauhaus, with its elite notion of a stripped-down, barely furnished world to come that the "workers" would gladly occupy. The American science slicks were a lot less somber about the future than were the European intellectuals, but far more insightful. The actual future turned out to be one of material, individuating plenitude and not at all of minimalist class conformity.

Space Age speculation drew on both of these approaches, and of course the Space Age stands out among various futures because, like the Atomic Age that it overlapped, it seemed to be taking shape. But only some of it—communications satellites, for example—reflected people's desires. Much of it was a state program established for geopolitical reasons, as part of the competition with the USSR, which meant that it was to follow the trajectory of the state's needs. As those needs shrank, as bureaucratic and budgetary issues buffeted NASA, the Space Age that depended on the state's shrinking dreams got ever smaller too.

Politically mandated futures don't develop, because the forces behind them are artificial. While many of the scientific achievements of the space program were certainly impressive (and many have indeed »

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we've had to make do with bitter tell-alls by former associates or books such as *Madalyn Murray O'Hair: "Most Hated Woman In America"* (1998), a true-crime quickie written by Jon Rappaport and published by Truth Seeker, a rival atheist organization O'Hair was trying to take over just prior to her 1995 murder.

The Atheist is at heart an intellectual biography. For Le Beau, the evolution of O'Hair's atheist doctrines is where the real action is. Whole chapters, including a stretch of more than 100 pages, go to paraphrasing O'Hair's philosophy, as it was detailed in public comments, a diary, a radio program, and writings such as *Why I Am an Atheist* (1966) and *Freedom Under Siege* (1974). O'Hair, as represented here, lays out a compelling case against religion and for atheism as an honorable, inspiring system of belief. Whether that system ever crossed the frontier into faith is a bit of woolgathering this book rarely indulges.

While O'Hair delights in mocking Catholic archaisms, biblical literalism, and other easy targets, she's equally tough on modern liberal theologians such as Reinhold Niebuhr and Martin Buber, and skeptical of the notion that Americans left religious intolerance back in the Old Country. She resurrects 19th-century atheist heroes such as the forgotten Republican jurist, polymath, and orator Robert Green Ingersoll, and coopts famous religious dissidents as atheists in all but name. Watching O'Hair cut through "freethinker" and "humanist" labels is as enjoyable as seeing a catty queen out "confirmed bachelors."

O'Hair's lectures include sustained notes on U.S. history, almost a national counter-history, in which church-avoiding George Washington and stern foe of superstition Thomas Jefferson support church/state separation out of exasperation with religion rather than sympathy for it. There's a quibble over the addition of apocryphal religious phrases to the "Mrs. Bixby" letter attributed to Abraham Lincoln. In one riveting tale, O'Hair tracks the 19th-century history of efforts to establish a state religion.

Le Beau's version of O'Hair's personal history is less impressive. O'Hair led an interesting life, but Le Beau, a historian of documents rather than persons, seems unwilling to put much flesh on the bones. He appears to have conducted no interviews, relying on published sources for his portrait of O'Hair. Since she had almost as many enemies as there are Americans, this means the narrative draws heavily from derogatory works, most notoriously *My Life Without God* (1982), an autobiography and conversion narrative by her apostate son William Murray.

From these, a sketch of O'Hair does emerge. A quintessential New Deal daughter, she knew the American state firsthand, through World War II service as an officer in the Women's Army Auxiliary Corps, in jobs with the Social Security Administration and local governments, and by obtaining various postwar government loans.

How she formed her ideas about the church, on the other hand, remains a mystery. In her own comments on the subject, O'Hair claimed to have come to atheism in a teenage intellectual awakening after reading the Bible through in one weekend. In her elder son's telling, O'Hair's quar-

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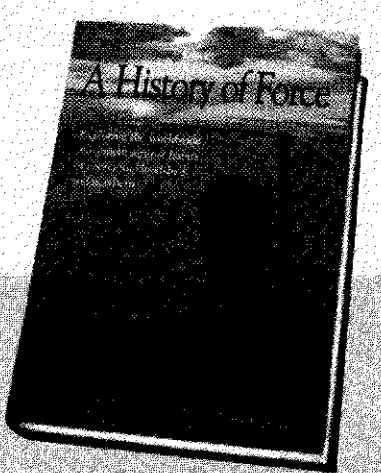

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rel with the Almighty had less noble beginnings. The Catholic Army officer who knocked her up with William refused to divorce his wife. In one family legend, the pregnant Madalyn stood in an electrical storm and challenged God to prove his existence by striking her dead.

Whatever its cause, her Miltonic refusal to serve came to the nation's attention beginning in 1960, when Madalyn Murray (she would marry Richard O'Hair later in the decade) filed suit against the Baltimore Board of Education, objecting to mandatory Bible readings and prayer sessions. *Murray v. Curlett*, as the case was called by the time it reached the Supreme Court (after being attached to *Schempp v. School District of Abington Township*, a similar case in Pennsylvania), was widely credited, and promoted by O'Hair herself, as the dramatic reversal of a rising tide (stirred by Cold War anti-communism) toward public prayer. Le Beau revises this impression. The legal heavy lifting in deciding that even nonsectarian prayer in public schools violated the First Amendment's Establishment Clause had already been done in *Engel v. Vitale*, an earlier Supreme Court decision. *Murray v. Curlett* went beyond *Engel* mainly by clarifying its conclusions.

O'Hair's critique of prayer in public schools left untouched the central question of whether public education's mission of molding acceptable citizens is legitimate.

O'Hair's greater misapprehension about her case was that it heralded a victory for atheism. School boards had for several years been watering down prayer through mush-mouthed nondenominational language. Amicus curiae briefs for *Murray v. Curlett* were filed by the American Jewish Committee and the Synagogue Council of America (though not by the Anti-Defamation League of B'nai B'rith). Edward and Sidney Schempp, O'Hair's co-plaintiffs, were Unitarians. The Supreme Court's decision did not favor atheism but merely acknowledged what Justice Tom Clark called America's "diversity of religious opinion."

O'Hair soared in the 1960s, building a comfortable personal fortune out of her American Atheists organization and carrying her war on religion to new fronts: sublunary Bible broadcasts by NASA astronauts, the "In God We Trust" inscription on U.S. currency, and so on. Big shots such as Billy Graham, however, gradually learned to steer clear of O'Hair, and she herself was uncomfortable with the absurd antics her position required. The Rev. Bob Harrington tour seems to have caused her intense private shame, and she quit after a few lucrative months.

The presidency of born-again Christian Jimmy Carter, followed by the high profile of evangelical Christianity under Ronald Reagan, demonstrated even to O'Hair that she was on a long slide toward irrelevance. The final insult came in 1989, when a Moscow Book Fair crowd ignored her atheist literature while grabbing 10,000 free New Testaments.

O'Hair's personal life brought frequent sadness. Son William, on whose behalf she had filed *Murray v. Curlett*, turned out to be a disappointment, a thrice-divorced drunk who handed his first child, Robin Ilene Murray, over to his mother to raise. Following a historic bender and a nonlethal shooting incident with the San Francisco Police Department, William found Jesus in a dream that seems to have been plagiarized from the Emperor Constantine. O'Hair's husband died slowly and painfully of cancer, American Atheists struggled for funds, and the atheist message, as measured by magazine subscriptions and mailing lists, found few takers in the United States.

>> Goodbye, Space Child

changed people's lives), the cultural Space Age that author Topham examines in his pages was an illusion. The stuff of future fashion, and future junk, was a design fad, rather like the design enthusiasm for Egypt that followed the unearthing of King Tut's tomb.

"The space age entered the home as a child's plaything," writes Topham, "but from the toy box it threatened to take over the whole house." Did it? Even if it didn't, his is nevertheless a good formulation. The future that lies in a toy box is a serious future. It reflects real fantasies, not political needs.

There's a Space Age still waiting to emerge from such a box, one into which a real Space Child—in fact, a future full of them—will be born.

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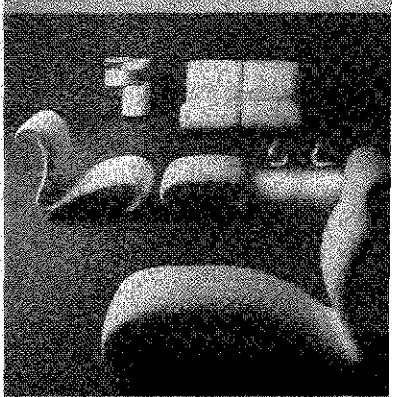

Studioline upholstered furniture system, from Where's My Space Age?

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Le Beau's challenge in telling this story is that the principal players—Madalyn Murray O'Hair and the two family loyalists, second son Jon Garth Murray, and granddaughter Robin—are all dead. In 1995 all three were kidnapped by three men (one a former employee at O'Hair's office), held captive for a month, forced to empty their bank accounts, and finally murdered. Even then the crime was used to damn O'Hair; until the family's remains were found in 2001, rumors abounded that she had absconded with her organization's funds. The details of O'Hair's case have been explored in Rappaport's book and in a splendid episode of the A&E Network's *City Confidential*. Le Beau is mercifully brief in his treatment of it.

Assessing O'Hair's legacy, Le Beau is skeptical, ungenerous, and, I think, mostly correct. Atheism has found little traction, though it is largely tolerated with nonchalance. Nor is society noticeably more comfortable with the critical approach to religious belief O'Hair advocated. (Witness the ease with which Americans accepted the notion that the September 11 attack, the most dramatic expression of religious belief in our time, was the work of a few knaves out to hijack a great religion.) Ostentatious displays of piety that would have been considered in poor taste in O'Hair's time are near prerequisites for high elective office. The nation appears comfortable in a state of indeterminacy with regard to God's presence on our money and in the Pledge of Allegiance.

How then did O'Hair contribute to expanding freedom of conscience? Her case might be easier to make if her devotion to freedom had been clearer. O'Hair's flirtations with Sovietism (though somewhat mitigated by her later efforts to push communists away from the atheist movement) are indicative of an approach that attacked the church but rarely, if ever, the state. Her critique of prayer in public schools left untouched the more central question of whether public education's mission of molding acceptable citizens is a legitimate one. Rather than trying to remove the nonprofit tax exemptions for churches, she might have asked why for-profit organizations must pay taxes in the first place. Is it any less absurd to pledge allegiance to an inanimate object than it is to mention God in the course of that pledge?

But religious freedom expands mostly through paradox. Martin Luther, a churlish priest and an anti-Semite even by the standards of his day, moved the question of individual conscience to the center of Western moral thinking. New England settlers, true believers in election and preterition, helped found a country where free will is given vast rein. Dante Alighieri, the most pope-intoxicated literary genius Europe ever produced, was also an early proponent of the separation of church and state.

In these terms, Madalyn Murray O'Hair may have had a lasting impact. She chased religion into the private sector, and there it flourishes, through homeschooling, through church-sponsored schools serving every creed, in overtly religious programming on network TV, in countless "spiritual" bestsellers. Most or all of these would have been anathema in the era of big-tent Cold War liberalism; in an age where the individual's duty to the state is no longer so clear, we live with them comfortably. Lately even some atheists have gotten into the act, demanding to be called "brights" and respected for their deeply held beliefs. Such a wild ending could only have been cooked up by a master storyteller, but God, as we know from His published works, has little appreciation for irony.

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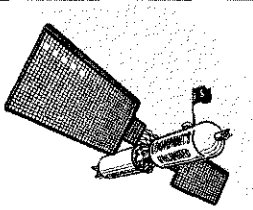

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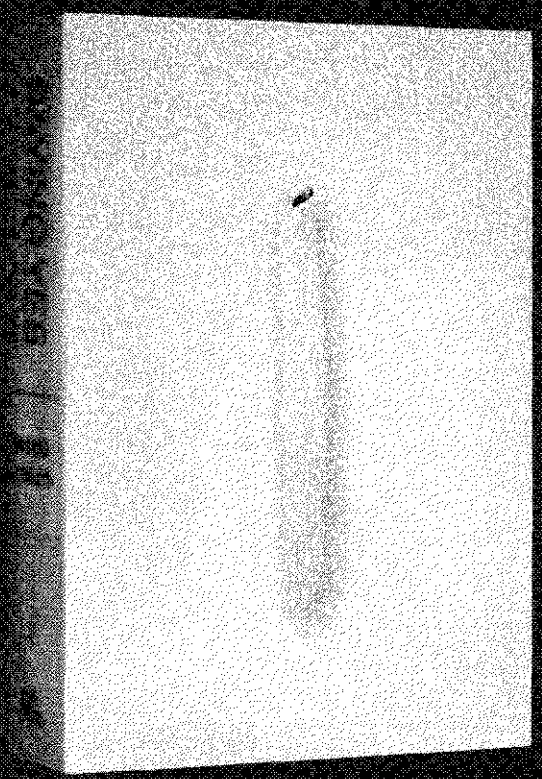

In ***Saying Yes***, Jacob Sullum of *Reason* argues that illegal drug use should be viewed the same way as drinking, with an emphasis on temperance rather than abstinence. Sullum rejects the idea that there is something inherently wrong with using chemicals to alter one's mood or mind. He uses compelling stories about real people to illustrate the point that there is such a thing as responsible drug use.

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Every Man a Demiurge

A matrix of your own

Jesse Walker

If you want to understand the *Matrix* trilogy, think of it as a capsule history of baby boom rock. The original *Matrix* is a three-chord riff of a movie: a simple, familiar idea—"What if reality is a great big fake?"—amplified and transformed into an irresistible hook. *The Matrix Reloaded* is a 1970s concept album: sprawling, pretentious, and ultimately incoherent, but brimming with ideas and virtuoso displays. And *The Matrix: Revolutions* is an over-the-hill pop star recycling someone else's material—the sort of music you'd hear on a Michelob commercial, circa 1987.

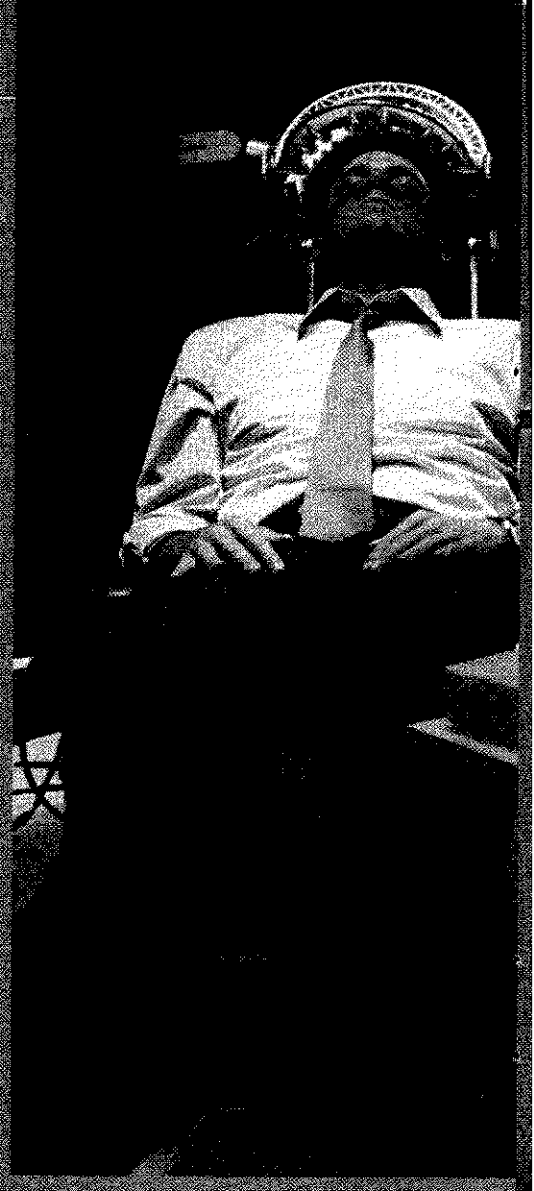
Revolutions was already slated to be the final installment of the series. But even if it weren't, its chilly critical and commercial reception should guarantee that we won't find ourselves awash in ads next summer hyping *The Matrix 4: This Time, It's Personal*. Indeed, this turgid tale marks the decadent stage not just of a Hollywood franchise but of a briefly vibrant genre.

In the late '90s and early '00s, a wave of films played with the notion that what we experience as reality is a false and perhaps malevolent illusion. The idea wasn't new—it was at least as old as Plato, and it had provided the backbone for many movies already—but suddenly it was everywhere: in *The Truman Show* (1998), *Dark City* (1998), *The Matrix* (1999), the Canadian *eXistenZ* (1999), *The Thirteenth Floor* (1999), the TV series *Harsh Realm* (1999–2000), *Waking Life* (2001), *Vanilla Sky* (2001), and others. The broader idea of prowling about in someone else's virtual world turned up in still more pictures, from *It Came From Outer Space* (1953) to *Being John Malkovich* (1999) to *The Cell* (2000). The quality of the films varied widely; the idea at their core did not.

You can credit part of this glut to imitation. But too many of the projects were created simultaneously and independently for that to explain everything. For whatever reasons, audiences at the turn of the century were receptive to paranoid thrillers about inauthentic realities. Call it the demiurge cycle, after the Gnostic notion that our world is governed by a mad ersatz God.

With *Revolutions*, the cycle stops—not because hardly anyone seems to like it but because, unlike its two predecessors, it barely bothers to engage the idea that set the *Matrix* trilogy in motion. No longer trapped in a fake world created by an evil intelligence, our heroes are now trapped in an anthology of war movie clichés; no longer skeptical and alienated, they repeatedly proclaim the truest sort of faith. When critics comment on the demiurge genre, they usually cite the novelist Philip K. Dick as its patron saint. Well, there is no trace of Dick in *The Matrix: Revolutions*, unless he secretly ghostwrote an episode of *Battlestar Galactica*.

It's possible that I'm burying this genre too soon. By the time you read this, John Woo's *Paycheck*, based on one of Dick's early short stories, will be in theaters. And the author's best book, *A Scanner Darkly*, has been floating around Hollywood for years, attached to such names as Richard Linklater and Steven Soderbergh. But neither of those stories really fits the virtual world formula. And while Hollywood has optioned several other Dick tales, it remains to be seen whether they will revive the genre or simply confirm its death.



Of course, when Dick wrote about alternative realities, he went further than most of the movies he inspired. If the king of the world builders was J.R.R. Tolkien—the man who devoted so much of his life to creating the Middle Earth of *The Lord of the Rings*, complete with an elaborate philology for his imaginary languages—then Dick was the fellow who confessed, in an essay called "How to Build a Universe That Doesn't Fall Apart Two Days Later," that he liked "to build universes that *do* fall apart. I like to see them come unglued, and I like to

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see how the characters in the novels cope with this problem.[9] In a Dick story, true as well as false realities threaten to crumble away, and false as well as true realities are waiting to be discovered.

Only a few of the recent films – notably *eXistenZ* and *Being John Malkovich* – took things that far. As a result, most of them never acknowledged a curious social fact that lurked in the background while they flickered on our cineplex screens. In these movies, either the protagonist or the whole world is trapped in an alternate universe of someone else's making. Yet the films emerged as more and more people were willingly immersing themselves in alternate universes, many of which they helped to build. The worlds of the Web, of multiplayer video games, of fan communities, and so on are ones in which people adopt or construct their own fake realities, which then bump up against one another in unpredictable ways.

Granted, that describes *all* social interaction. But there's something especially interesting about this latest variation. The paradox at the heart of the *Matrix* movies is that a story about people struggling to free themselves from an imaginary world should evolve into an imaginary world that millions of people are eager to enter. You can become a *Matrix* character by playing a best-selling video game; you can explore the *Matrix* universe by playing a collaborative online puzzle game; you can build unauthorized add-ons to that universe by devising your own *Matrix* parody or fan fiction. People might not like to be forced or tricked into a false world. Evidently, though, they'll jump at the opportunity to enter and exit one at will.

After watching *Revolutions*, most may opt to run for the exit. But there are plenty more consensual bubbles out there waiting to take its place.

Managing Editor Jesse Walker (jwalker@reason.com) is author of Rebels on the Air: An Alternative History of Radio in America (NYU Press).

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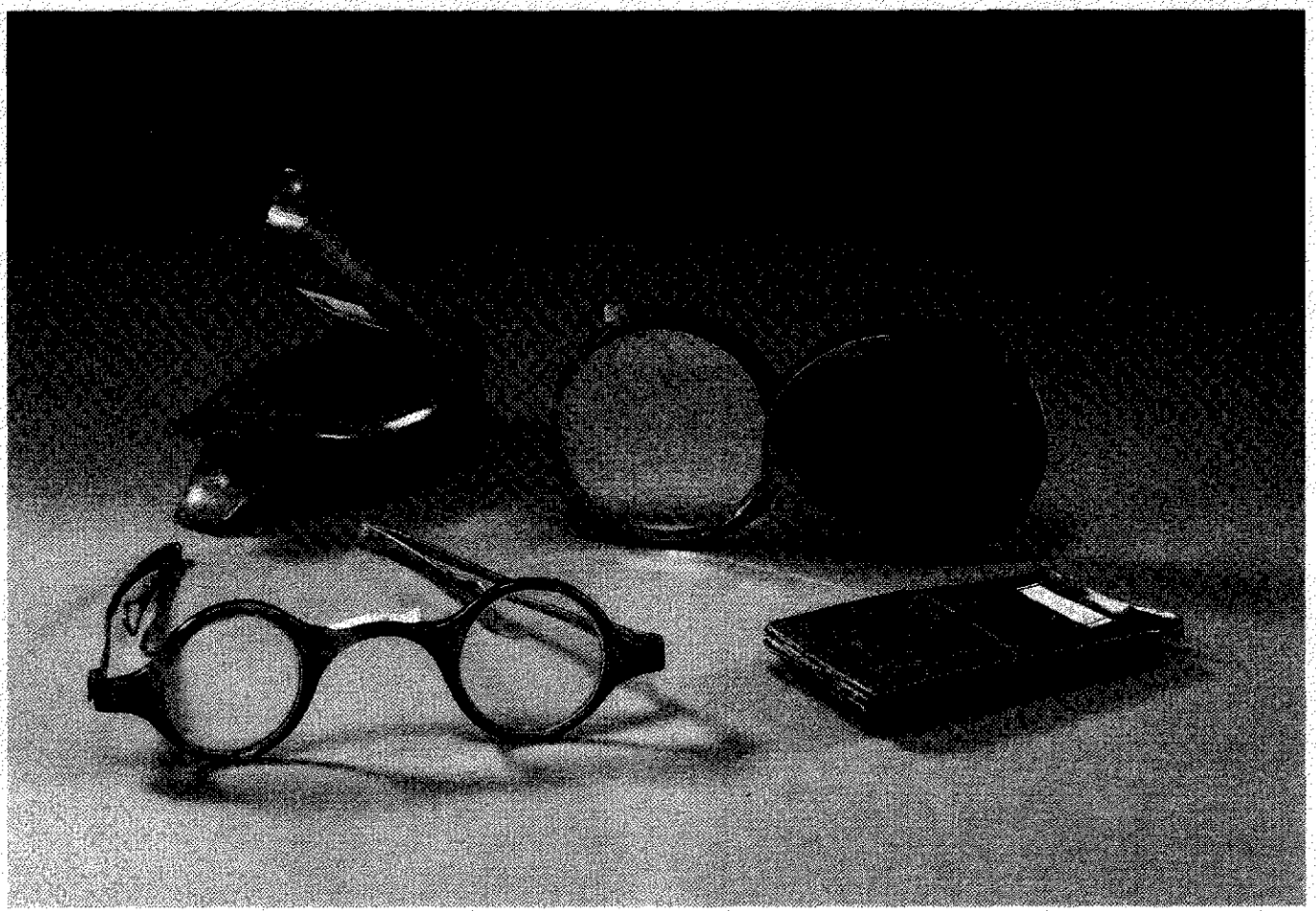

Turner Memorabilia from Maria Tanner's Collection, Sotheby's

Visionary Art

Charles Paul Freund

THESE SPECTACLES, auctioned in the fall by Sotheby's, are said to have belonged to J.M.W. Turner (1775–1851), the British painter whose wholly original treatment of luminosity late in his career inspired the Impressionists and revolutionized art. But British eye surgeon James McGill, a student of Turner's work, believes the glasses are evidence that Turner's late style was actually a result of his deteriorating vision. Turner "was painting exactly what he saw," McGill told Britain's *Guardian*.

Turner's vision has been debated before, but McGill's diagnosis is a specific one: The painter suffered some color blindness, affecting his reds and blues, and saw the world through cataracts. The latter would have resulted in his perceiving "exactly that effect of dazzling shimmering light we see in the paintings."

If true, such a diagnosis would hardly diminish Turner; it would make his achievements more impressive, because he'd have chosen to make his disability a part of his method. Yet despite a wealth of suggestive case studies—Goya's work changed dramatically following a bout of apparent lead poisoning; Guy de Maupassant's syphilis may have affected his late writing—the effort to understand art in terms of biology remains peripheral, and art remains locked in its Romantic cage.

If Turner did strive to make art from a clouded vision, his effort would have been one of intensifying intellectual engagement with the world, not of Romantic spiritual alienation from it. A Turner with fading sight would not have been trapped by biology; he would have been using his work to transcend it.

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Smaller Target, Better Job

Paul T. Hill is a distinguished visiting fellow at the Hoover Institution; a member of Hoover's Koret Task Force on K–12 Education; and a research professor and acting dean at the University of Washington's Daniel J. Evans School of Public Affairs.

In many cities the job of school superintendent offers all the satisfactions of the town spear catcher. Able people often leave the job pierced in soul if not in body. Cities such as Seattle and Portland can get qualified men and women to apply for the job but can't keep applicants interested long enough to hire anyone.

A few hardy souls, such as Boston's Tom Payzant and San Diego's Alan Bersin, hang in there. But most superintendents either quit in frustration or are fired when school boards that can't settle on anything else agree that the superintendent is no good.

Superintendents are not all equally well prepared or skillful, but the problem is more with the job than with the people. School superintendents are expected to keep everyone happy, even such groups as parents of gifted and disadvantaged children who are in a zero-sum competition for money. They are supposed to maintain a warm, fuzzy relationship with teachers whose unions are constantly undercutting reform efforts and grabbing any new money that becomes available for salaries and smaller class sizes. They are supposed to get results out of a district central office, many of whose staff members are tenured lifers or have their own power bases in local churches, neighborhoods, and political clubs.

Superintendents are ultimately fired or driven to distraction by school boards, which do a wonderful job of representing all the conflicts and confusions that exist in their communities. It's hard to see how school boards as constituted can do anything else: they too face fractured communities and incompatible demands. But unlike the superintendent they have somebody on whom they can take out their frustrations.

Education insiders keep searching for a mutant strain of individuals who can succeed under these circumstances. But the real problem is with the jobs themselves, both of superintendent and of school board member.

These jobs are setups. Superintendents and school board members are expected to take responsibility for things that they can't influence because state and federal regulations and collective bargaining agreements stand in the way. The scope of the superintendents' nominal powers—hiring all the teachers, spending all the money, choosing all the books, managing all the buses—is so great that every kind of conflict or grievance comes straight to them.

The key to making superintendent and school board jobs doable is to refine the excessive powers and duties to the few that matter, such as focusing on charter schools rather than hiring teachers, holding schools accountable for children's learning instead of dealing with grievances, sending dollars to the schools that parents choose in place of fiddling with centrally administered budgets, withdrawing support from schools that do not teach effectively, developing new schools to replace failed ones, and letting parents choose among schools rather than trying to make the best of a bad family-school match.

Superintendents and school boards can trade in grandiose roles for simpler but more consequential ones and catch a lot fewer spears in the bargain.

— Paul T. Hill

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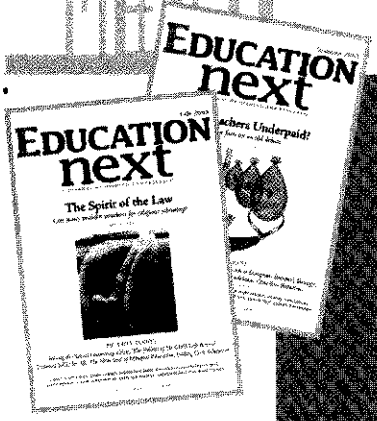

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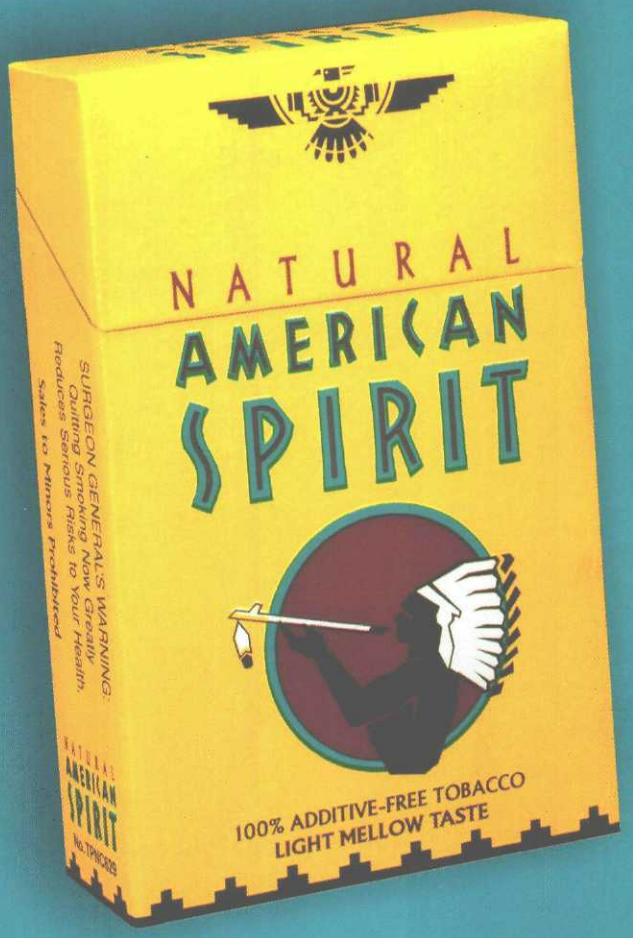

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